

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of Request for Review  
by Pharr-San Juan-Alamo Independent  
School District of Decision of  
Universal Service Administrator and  
Petition for Waiver

)  
) CC Docket No. 02-6  
)  
) CC Docket No. 96-45  
)  
) File No. SLD-303671 (FY 2002)  
)

To: The Commission

**PHARR-SAN JUAN-ALAMO INDEPENDENT SCHOOL DISTRICT  
REQUEST FOR REVIEW AND PETITION FOR WAIVER**

Edwin N. Lavergne  
Donna A. Balaguer  
Fish & Richardson P.C.  
1425 K Street, N.W.  
11<sup>th</sup> Floor  
Washington, DC 20005  
(202) 783-5070

Its Attorneys

July 30, 2007

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## SUMMARY

The Pharr-San Juan-Alamo Independent School District (the “School District”) is responsible for the education of over 28,000 students in southern Texas. Nearly all of the School District’s students are disadvantaged minorities eligible to participate in the National School Lunch Program, meaning that almost all of the children live below or near poverty level. The School District depends on the discounts it receives through the E-rate program to provide its schools with access to the telecommunications services and infrastructure that are crucial in today’s educational environment.

In 2002, the Universal Service Administrative Company (“USAC”) approved an E-rate application and subsequently disbursed \$3,135,350 to service providers for the provision of internal connections to the School District. In 2005-2006, a routine audit conducted by KPMG LLP revealed that there was an error in the application process for the internal connections. Specifically, the School District failed to adhere to the requirements of a Commission rule which requires applicants to wait at least 28 days after posting FCC Form 470 on the USAC web site before entering into a contract with a service provider. USAC has now demanded that the School District pay the \$3,135,350 that was previously disbursed to service providers for services rendered to the School District years ago.

The failure to adhere to the 28-day rule occurred as a result of an *innocent mistake by a new employee*, and the School District has since implemented stringent procedures to ensure that such a mistake will not reoccur. The School District did not defraud or abuse the E-rate program. Moreover, in selecting a service provider, the School District used *a state-approved vendor listing and a sealed-quote procurement process to secure the most cost-effective pricing commercially available at that time and in that area* for the services obtained. Finally, because

the School District apparently received no inquiries from other potential vendors after posting FCC Form 470 on the USAC web site, it is clear that *no service provider was competitively disadvantaged or harmed in any way* by the School District's failure to abide by the 28-day rule. Under these circumstances and given prior Commission precedent, reversal of USAC's decision is warranted.



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**PHARR-SAN JUAN-ALAMO INDEPENDENT SCHOOL DISTRICT  
REQUEST FOR REVIEW AND PETITION FOR WAIVER**

The Pharr-San Juan-Alamo Independent School District (the "School District"), by its attorneys and pursuant to Section 54.719(c) of the Commission's rules, hereby requests review of the action taken by the Universal Service Administrative Company ("USAC") with respect to six Funding Request Numbers ("FRNs") in the above-captioned application (the "Application").<sup>1</sup> USAC granted the Application and disbursed \$3,135,350 to service providers for services they rendered to the School District. USAC has now demanded that the School District pay \$3,135,350 because the School District failed to adhere to the requirements of Section 54.504(b)(4) of the Commission's rules, which requires applicants to wait 28 days after posting FCC Form 470 before contracting with a service provider.<sup>2</sup>

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<sup>1</sup> Although the Application contains several FRNs, the only FRNs that were affected by USAC's decision, and which are the subject of this appeal, are 810283, 810370, 810449, 810517, 810851 and 810889. The Billed Entity Name is Pharr-San Juan-Alamo I S D and the Billed Entity Number is 141667.

<sup>2</sup> See 47 C.F.R. § 54.504(b)(4), which provides, in relevant part, that after posting FCC Form 470, an applicant "shall then wait at least four weeks from the date on which its description of services is posted ... before making commitments with the selected providers of services." (the "28-day rule").

The School District respectfully requests that the Commission (1) reverse USAC's decision, (2) direct USAC to discontinue recovery actions against the School District, and (3) waive Section 54.504(b)(4) and any other Commission rules necessary to grant the relief requested. Given prior Commission precedent and the facts of this case, there are ample grounds to reverse USAC's decision and grant the requested waiver.

## **I. BACKGROUND**

The School District is responsible for the education of over 28,000 students in the Pharr, San Juan and Alamo, Texas region. The School District includes 35 elementary and secondary schools that provide education from kindergarten through twelfth grade. Nearly 100% of the students are disadvantaged minorities. Ninety percent of the students in the School District are eligible to participate in the National School Lunch Program, meaning that almost all of the children live below or near the poverty level as defined by the U.S. government.<sup>3</sup>

The School District has participated in the Commission's schools and libraries universal support mechanism (also known as the E-rate program) since its inception. The School District depends on the discounts it receives through the E-rate program to ensure that its schools have access to the telecommunications services and infrastructure that are crucial in today's educational environment. The School District's student population is so underprivileged, that it is eligible for the maximum USAC discount level of 90%. Without the benefits provided by the E-rate program in the past, as well as the funds anticipated in the future, the School District would be unable to obtain affordable telecommunications services and Internet access.<sup>4</sup>

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<sup>3</sup> See Exhibit A at ¶¶ 3-4; see also <http://www.fns.usda.gov/cnd/Lunch>.

<sup>4</sup> See Exhibit B at ¶¶ 3-5.

The School District has used E-rate funding for the purchase of network equipment necessary for the delivery of instructional resources to students, telecommunications services, such as local and long-distance telephone service, and the network cabling of schools. E-rate funding has provided Internet access, which is crucial now that the State of Texas is requiring both teachers and students to meet certain technology standards. For example, the Texas State Board of Education has adopted a *Long-Range Plan for Technology, 2006-2020* that requires kindergarten and advancing students to demonstrate their ability to acquire information, solve problems and communicate using technology.<sup>5</sup> Without the network infrastructure provided by E-rate funding, the School District would be unable to provide the online instructional resources and testing capabilities that are increasingly required by the state and federal governments.<sup>6</sup>

The population in the School District is growing at a rate of approximately 1,000 students per year, which equates to nearly one additional school per year. The School District depends on E-rate funding to manage such growth. For example, the School District is currently building additions to eight existing schools and is constructing a new elementary school. In addition, E-rate funding has enabled the School District to purchase advanced technologies such as video conferencing components and wireless equipment. This, in turn, has enabled the School District to ensure that economically disadvantaged children have the same opportunities and tools to learn as children in more affluent areas of the state. In short, the technologies and resources

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<sup>5</sup> Texas Education Agency's *Long-Range Plan for Technology, 2006-2020*, adopted by the State Board of Education November 2006, available at <http://www.tea.state.tx.us/technology/lrpt/>; see also Exhibit B at ¶ 3.

<sup>6</sup> See Exhibit B at ¶ 3; see, e.g., Texas Education Code at § 32.031 ("PURPOSE. To prepare students for the 21st Century ... public education must use, in a comprehensive manner, appropriate, accessible technology in all aspects of instruction, administration, and communication.")

provided by E-rate funding have contributed immensely to the education of students in the Pharr, San Juan and Alamo, Texas region.<sup>7</sup>

## II. PROCEDURAL HISTORY AND FACTS

On October 8, 2002, USAC approved the FRNs in question and subsequently distributed \$3,135,350 to service providers for services rendered to the School District. It was not until 2005, when KPMG LLP commenced a routine audit, that the School District learned there was an error in the application process for the internal connections.<sup>8</sup>

The error was caused by an innocent mistake. In 2001, the School District's employee that handled USAC applications resigned to take other employment. A new employee, Mr. Jose Martinez, was subsequently hired to take his place. However, at the time Mr. Martinez joined the School District, there was no one remaining at the School District who could train Mr. Martinez on the complicated procedures and filing requirements associated with the E-rate program. The Application was the first E-rate application that Mr. Martinez ever prepared.<sup>9</sup>

Mr. Martinez mistakenly believed that the School District was required to select its service provider *prior* to posting FCC Form 470. Thus, in November and December 2001, prior to posting FCC Form 470, a competitive procurement process was used to select the internal connections vendor.<sup>10</sup> The School District then submitted Form 470 on December 10, 2001, and formally executed a contract with the selected vendor on December 11, 2001, which was prior to

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<sup>7</sup> See Exhibit B at ¶¶ 3-6.

<sup>8</sup> A copy of the KPMG LLP audit report dated March 6, 2006, is attached as Exhibit C (the "*Audit Report*"); see also Exhibit A at ¶ 10.

<sup>9</sup> See Exhibit A at ¶¶ 5-6.

<sup>10</sup> See Exhibit A at ¶¶ 7-8; Exhibit D at ¶¶ 3, 4. See discussion *infra* Section III (providing additional details concerning the competitive vendor selection process).

the allowable contract date of January 7, 2002.<sup>11</sup> Continuing to operate under an erroneous understanding of the 28-day rule, Mr. Martinez posted FCC Form 471 on January 16, 2002.<sup>12</sup>

On October 8, 2002, USAC approved the FRNs in question and subsequently distributed \$3,135,350 to the selected service providers. On November 14, 2006, in response to the KPMG *Audit Report*, USAC notified the School District that it would take no action on pending or future FCC Forms 471 until the School District supplied additional information to USAC.<sup>13</sup> On December 7, 2006, USAC notified the School District that it would seek recovery of the funding for the internal connections.<sup>14</sup> On January 11, 2007, the School District filed an appeal with USAC.<sup>15</sup> On June 1, 2007, the School District's appeal was denied by USAC.<sup>16</sup> On June 7,

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<sup>11</sup> See Exhibit A at ¶ 9. The School District has not been able to determine why the Application lists January 14, 2002 as the contract award date. Mr. Martinez completed the form and is no longer employed by the School District. The School District later completed a service provider or "SPIN" change, substituting The Presidio Corporation as the service provider for FRNs 810283, 810370, 810449, 810517 and 810851. Calence, LLC, which was formed in early 2006 as a merger between Avnet Enterprise Solutions and Calence, Inc., is the service provider for FRN 810889.

<sup>12</sup> *Id.*

<sup>13</sup> See Letter from Cynthia L. Beach, Manager of Audit Response, USAC to Jose F. Martinez, dated November 14, 2006 attached as Exhibit E ("Non-Compliant Letter").

<sup>14</sup> See two Letters from USAC to Jose F. Martinez dated December 7, 2006 attached as Exhibit F ("Commitment Adjustment Letters").

<sup>15</sup> See Letter from Arturo Guajardo, Superintendent of Schools dated January 11, 2007 attached as Exhibit G ("Letter of Appeal").

<sup>16</sup> See Letter from USAC to Arturo Guajardo dated June 1, 2007 attached as Exhibit H. Although the Letter of Appeal referenced the Non-Compliant Letter, it was filed within the deadline for appealing the Commitment Adjustment Letters and USAC treated it as such. The *Audit Report* contained three findings other than the 28-day rule error, which the School District addressed in its Letter of Appeal. However, in the Commitment Adjustment Letters and denial of the Letter of Appeal, USAC addressed only the 28-day rule error and based its decision solely on the 28-day rule error.

2007, USAC formally notified the School District that it was seeking recovery of the \$3,135,350 for internal connections.<sup>17</sup>

### III. WAIVER OF THE 28-DAY RULE IS APPROPRIATE

A waiver of the 28-day rule is appropriate given the facts of this case and the significant hardship that would result if a waiver is not granted.<sup>18</sup> The Commission has granted waivers in similar circumstances when E-rate applicants have misunderstood or not otherwise adhered to the 28-day rule. Most recently, the Commission granted petitions for reviews and waivers in 62 cases where USAC denied E-rate applications or requested the return of funds due to violations of the 28-day rule.<sup>19</sup> Several of the petitioners had, like the School District, mistakenly signed contracts prior to the allowable contract date due to a misunderstanding of the Commission's rules.<sup>20</sup> Nonetheless, the Commission granted waivers of Section 54.504(b), finding that

[T]here is no evidence of waste, fraud or abuse. The goal of the competitive bidding process is to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available. We find no

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<sup>17</sup> See Letter from USAC to School District dated June 7, 2007 attached as Exhibit I ("Demand Payment Letter"). Due to its constrained resources, the School District did not engage counsel until after receipt of the Demand Payment Letter. On July 6, 2007, the undersigned counsel requested that USAC suspend any collection efforts until the Commission has an opportunity to consider the School District's appeal. See Letter from Donna Balaguer, Esq. to USAC dated July 6, 2007 attached as Exhibit J.

<sup>18</sup> The Commission's authority to grant waivers to further the public interest is well established. See, e.g., 47 C.F.R. § 1.3; *Wait Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

<sup>19</sup> *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District, Aberdeen, WA, et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-297249, *et al.*, CC Docket No. 02-6, Order, FCC 07-63 (rel. May 8, 2007) ("May Order"). See also *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-487170, CC Docket No. 02-6, Order, 21 FCC Rcd 5316 (2006) ("Bishop Perry").

<sup>20</sup> See *May Order* at ¶ 8.

indication in the record that, as a result of these errors, applicants benefited from their mistakes or that any service provider was harmed.<sup>21</sup>

In granting waivers to the petitioners, the Commission was guided by three key findings: (1) there was no waste, fraud, or abuse; (2) there was no payment of a higher price than was otherwise commercially available; and (3) there was no benefit from the mistake or harm to other service providers. All three elements are satisfied in this case.

First, the School District did not defraud or abuse the E-rate program. The 28-day rule error resulted from an innocent mistake made by a new employee who misinterpreted the complex procedural requirements associated with the USAC forms.<sup>22</sup> This was an isolated incident, and all subsequent applications submitted by the School District complied with the 28-day rule.<sup>23</sup> Moreover, as discussed in further detail below, the School District has implemented stringent procedures to ensure that such mistakes will not occur again.

Second, E-rate funding was not wasted here because the School District did not pay a higher price than was otherwise commercially available. Rather, the School District conducted a fair and competitive procurement process for the contracts at issue. The School District is a member of the Cooperative Purchasing Program (“Co-Op Program”) of the Texas Building and Procurement Commission, the official purchasing arm of the State of Texas (formerly known as the Texas General Services Commission) (“TBPC”).<sup>24</sup> The TBPC web site emphasizes that

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<sup>21</sup> *Id.* at ¶ 9. See also *Bishop Perry*, 21 FCC Rcd at 5321, ¶ 11.

<sup>22</sup> The Commission has recognized that most of the individuals who fill out USAC forms are not experts in pursuing federal grants, especially in small school districts, and often fulfill other positions such as technology coordinators. See *Bishop Perry*, 21 FCC Rcd at 5323, ¶ 14. Mr. Martinez was the Management Information Systems Director of the School District and was not an expert in E-rate procedures. See Exhibit A at ¶¶ 5-6.

<sup>23</sup> See Exhibit B at ¶ 7.

<sup>24</sup> See Exhibit D at ¶ 3.

participation in the Co-Op Program will result in the best value for purchases by local governmental organizations such as the School District and will satisfy Texas state purchasing statutes and competitive bidding requirements.<sup>25</sup> TBPC encourages competition and reaching the best value by working with over 12,000 vendors globally.<sup>26</sup> TBPC maintains lists of registered vendors who receive bids based on the products and/or services they can provide to the state and its organizations.<sup>27</sup>

The School District identified vendors on the TBPC list who could provide the services required by the School District.<sup>28</sup> The School District then solicited competitive sealed written quotes from four TBPC vendors, and held a pre-quote meeting and a campus walk-through with those vendors.<sup>29</sup> The School District received four competitive sealed written quotes, and selected the vendor that submitted the lowest responsive quote (*i.e.*, the vendor that met all hardware specifications set forth by the School District).<sup>30</sup> In fact, the KPMG *Audit Report* found that, although the School District should have ensured the vendor was selected only after the close of the 28-day window, “*the state approved vendor listing is an appropriate means of selecting bidders.*”<sup>31</sup>

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<sup>25</sup> See TBPC website at <http://www.tbpc.state.tx.us/communities/procurement/prog/coop/coopmain.html> (also note, “Members reap the savings for their individual organizations and ultimately for Texans.”)

<sup>26</sup> *Id.* at <http://www.tbpc.state.tx.us/communities/procurement>.

<sup>27</sup> *Id.* at <http://www.tbpc.state.tx.us/communities/procurement/prog/cmb1>.

<sup>28</sup> See Exhibit D at ¶ 3.

<sup>29</sup> See *Id.* at ¶ 4.

<sup>30</sup> See *Id.* at ¶¶ 5-7. See also 47 C.F.R. § 54.511(a).

<sup>31</sup> *Audit Report* at p. 19 (emphasis added).



The Commission has made clear that the purpose of the 28-day rule is to ensure more efficient pricing through competitive bidding.<sup>32</sup> The School District did, in fact, use a fair competitive bidding process that resulted in efficient pricing for the services obtained, albeit the methodology differed from the requirements of Section 54.504(b). The School District's process fulfilled the purpose behind the rule.<sup>33</sup> In fact, because the School District does not know of any vendor that inquired about the project in response to the posting of FCC Form 470, it appears that the process used by the School District (a process in which it actively solicited competitive sealed written quotes using the state's mechanism) may have resulted in *more competition* than merely posting FCC Form 470 for 28 days.<sup>34</sup> In light of these circumstances, it would be wrong

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<sup>32</sup> See, e.g., *May Order* at ¶¶ 5, 11. The Commission denied only one petitioner in the *May Order*, Adel-Desoto-Minburn Community School District ("Adel"), which did not file a FCC Form 470 for Funding Year 2002 or solicit any bids in that year. The School District is distinguishable from Adel in that it filed a FCC Form 470 and did solicit quotes from vendors. The School District's circumstances are like those of the other 62 petitioners in the *May Order*, who violated the 28-day rule due to a "misunderstanding" of the Commission's competitive bidding rules, and the Commission granted those petitioners waivers. See *Id.* at ¶ 10.

<sup>33</sup> The Commission itself has sought comment on ways to streamline the competitive bidding process. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint-Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd. 11308, 11325 (2005). In the meantime, it has granted waivers when applicants demonstrate that "rigid compliance with the application procedures does not further the purposes of section 254(h) [of the Communications Act of 1934] or serve the public interest." *Bishop Perry*, 21 FCC Rcd at 5321, ¶ 11.

<sup>34</sup> See Exhibit D at ¶ 8. USAC advises E-rate participants that if they receive no bids after posting FCC Form 470, they can contact service providers to solicit bids and review and evaluate any bids received as a result. See USAC Schools and Libraries News Brief (Dec. 8, 2006). In this case, there appears to be no practical difference between the School District having solicited quotes prior to posting FCC Form 470 than if it had waited until no bids had been received before soliciting such quotes.

to so severely penalize the School District when it awarded the contract in a manner that met the spirit and intent of the Commission's rules.

Finally, the School District did not benefit from the mistake that was made, nor was any service provider harmed. The School District awarded the contract in question to the lowest-priced vendor that offered to provide the services and products as specified by the School District, just as it would have had it received any bids as a result of posting FCC Form 470 and waiting 28 days. Furthermore, the School District apparently received no inquiries from any interested vendors after submitting FCC Form 470 on December 10, 2001, and prior to submitting Form 471 on January 16, 2002, over 28 days after Form 470 was posted.<sup>35</sup> Therefore, no service provider was denied an opportunity to bid.

#### **IV. STEPS TAKEN TO PREVENT FUTURE RULE VIOLATIONS**

The error in 2002 was an isolated one. The School District has complied with the 28-day rule for each application submitted since Funding Year 2002.<sup>36</sup> Furthermore, the School District has implemented procedures to ensure that such mistakes will not occur again, even if a new employee is hired or other circumstances change.

The School District has created an E-Rate Committee that is responsible for preparing and overseeing the E-rate program. Originally formed in April 2006 as the Technology Advocacy Council, the Committee consists of thirteen members, seven of whom are designated as Core Team members. The members of the Core Team are the Accounting Coordinator, Purchasing Coordinator, Director of Instructional Technology, Network Specialist, Security Systems Specialist and two Senior Technicians. The other members of the E-Rate Committee

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<sup>35</sup> See Exhibit D at ¶ 8.

<sup>36</sup> See Exhibit B at ¶ 7.

are the Superintendent of Schools, Assistant Superintendent for Finance, Assistant Superintendent for Administration and School Operations, Property Management Coordinator, PEIMS Coordinator and Child Nutrition Director. The Core Team is responsible for the day-to-day operation of the E-rate program at the School District, but all members of the E-Rate Committee are involved in the preparation and review of the program. All members of the E-Rate Committee are required to participate in E-rate training sessions. The School District has also created a special e-mail list for the E-Rate Committee to post information and communicate with each other in a timely and effective manner. All information provided to USAC on behalf of the School District must be reviewed by several E-Rate Committee members in order to reduce the likelihood of any errors or mistakes in such information.<sup>37</sup>

Clearly, the School District has shown its commitment to adhere to all of USAC's processes without any future errors. The mistake made in Funding Year 2002 does not indicate a pattern of abuse or fraud, or even a pattern of negligence in complying with applicable rules. The School District has taken this matter very seriously and implemented procedures that go above and beyond what might be expected from an E-rate beneficiary.

## **V. CONSEQUENCES OF FAILING TO REVERSE USAC'S DECISION**

The payment of \$3,135,350 at this time would create an undue hardship on the operations of the School District. If USAC's decision stands, the School District may need to take the needed funds from its already stretched and limited resources that are allocated to the education of its students. That unexpected withdrawal of funds might result in the reduction of instructional staff, thereby increasing the teacher-pupil ratio. It also may cause a reduction in instructional supplies, including computer software used to assist at-risk students, and delaying

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<sup>37</sup> See *Id.* at ¶ 8.

or foregoing necessary renovations to the School District's facilities.<sup>38</sup> The School District never expected to pay such funds, never budgeted for them, and simply does not have the reserves available to make such a payment.<sup>39</sup> The Commission has granted other E-rate applicants waivers of the 28-day rule based, in part, on the undue hardship that would follow if the waivers are not granted.<sup>40</sup> Furthermore, as the Commission has observed in other cases, the relief requested will have minimal effect on the overall Universal Service Fund because the monies in question were not only already collected under the E-rate program, but actually disbursed by USAC with no intention, at the time of such disbursement, of recovering such funds.<sup>41</sup>

USAC's decision has delayed the processing of subsequent E-rate applications, which in turn, has hindered the ability of the School District to maintain and upgrade its facilities. Specifically, the School District has applications pending before USAC for Funding Years 2005-2007. The processing of those applications appears to have been delayed as a result of the status of the Application for Funding Year 2002. The School District has been seriously hindered in its ability to maintain and upgrade its telecommunication services without E-rate funding for the past two years. In fact, the School District does not currently have a maintenance contract on its network infrastructure and is quite concerned about possible damages or outages, especially in the midst of hurricane season.<sup>42</sup> The Commission should grant this Request for Review and Petition for Waiver not only for the reasons described above associated with Funding Year 2002,

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<sup>38</sup> See Exhibit A at ¶ 13.

<sup>39</sup> *Id.*

<sup>40</sup> See, e.g., *May Order* at ¶ 9; *Bishop Perry*, 21 FCC Rcd at 5326, ¶ 22.

<sup>41</sup> See, e.g., *Bishop Perry*, 21 FCC Rcd at 5317, ¶ 2.

<sup>42</sup> See Exhibit B at ¶¶ 9-10.

but also to permit the unfettered processing of the School District's E-rate applications currently on file and to be filed in the future.

## **VI. CONCLUSION**

The School District is the perfect example of how the E-rate program can help those schools and students that are most in need. The program was created to ensure that all elementary and secondary schools and classrooms have access to advanced telecommunications services.<sup>43</sup> Without the E-rate funds, the School District would have fallen further and further behind more affluent school districts and simply been unable to provide its students with advanced, and perhaps even basic, telecommunications services necessary for their education in today's world of connectivity.<sup>44</sup>

The School District recognizes that an error was made in Funding Year 2002. However, that error was due to an innocent mistake and did not in any way subvert the purposes of the Commission's rules or E-rate program. Under these circumstances, it would be unfair to punish the students of Pharr, San Juan and Alamo, Texas by forcing the payment of \$3,135,350 that will need to be drawn from resources devoted to education. Accordingly, the School District requests that the Commission (1) reverse USAC's decision, (2) direct USAC to discontinue recovery actions against the School District, and (3) waive Section 54.504 and any other Commission rules necessary to grant the relief requested herein.

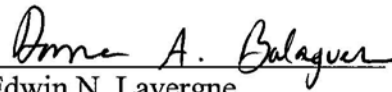
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<sup>43</sup> 47 U.S.C. § 254(b)(6).

<sup>44</sup> See Exhibit B at ¶¶ 3-5.

Respectfully submitted,

**PHARR-SAN JUAN-ALAMO  
INDEPENDENT SCHOOL DISTRICT**

By: 

Edwin N. Lavergne  
Donna A. Balaguer  
Fish & Richardson P.C.  
1425 K Street, N.W.  
11<sup>th</sup> Floor  
Washington, DC 20005  
(202) 783-5070

Its Attorneys

July 30, 2007

## CERTIFICATE OF SERVICE

I, Angelee Stamps, hereby certify that copies of the foregoing Request for Review by Pharr-San Juan-Alamo Independent School District of Decision of Universal Service Administrator and Petition for Waiver have been served, unless otherwise noted, by U.S. first class mail, postage prepaid, this 30th day of July, 2007, on the following:

Thomas Navin\*  
Bureau Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
Thomas.Navin@fcc.gov

Randolph Clarke\*  
Acting Legal Counsel to the Bureau Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
Randy.Clarke@fcc.gov

Jeremy Marcus\*  
Division Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
Jeremy.Marcus@fcc.gov

Gina Spade\*  
Assistant Division Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
Gina.Spade@fcc.gov

Letter of Appeal  
Schools and Libraries Division  
– Correspondence Unit  
Universal Service Administrative Company  
100 South Jefferson Road  
P.O. Box 902  
Whippany, NJ 07981

Cynthia L. Beach\*  
Manager of Audit Response  
Universal Service Administrative Company  
2000 L Street  
Washington, DC 20036  
cbeach@usac.org

By:   
Angelee Stamps

\*Via Electronic Mail

# **Exhibit A**



## **AFFIDAVIT OF JANET ROBLES**

I, Janet C. Robles, hereby declare and affirm that the following statements are true and correct.

1. I am over 18 years of age and competent to testify to the matters described herein.
2. I am the Assistant Superintendent for Finance for the Pharr-San Juan-Alamo Independent School District (the "School District"). I have worked for the School District for sixteen (16) years and have held my current position for approximately thirteen (13) years.
3. The School District includes 35 elementary and secondary schools that provide education to over 28,000 students from kindergarten through twelfth grade in the Pharr, San Juan and Alamo, Texas region. Nearly 100% of the students are minorities.
4. Nearly 90% of the students in the School District are eligible to participate in the National School Lunch Program, which means that almost all of the children in the School District live below or near the poverty level as defined by the U.S. government. Such eligible students receive a free breakfast, lunch and after-school snack under Provision 2 of the National Lunch Program.
5. In January 2001, Mr. Jose Martinez was hired by the School District as Management Information Systems Director. Mr. Martinez was responsible for the oversight of the School District's computer technicians, network infrastructure, file servers, network software, computer repair and student information database systems. Mr. Martinez resigned his employment with the School District on March 3, 2006.
6. Before Mr. Martinez joined the School District, the School District's employee responsible for filing the Universal Service Administrative Company ("USAC") applications had resigned in November 2000 to take other employment. Therefore, there was no one remaining at the School District to train Mr. Martinez on the filing requirements for the E-rate program. Mr. Martinez prepared the E-rate applications for Funding Year 2002. He had not prepared E-rate applications before.
7. Mr. Martinez believed that the deadline to submit FCC Form 470 for Funding Year 2002 was December 15, 2001. It is not known why Mr. Martinez believed this date was the deadline. Mr. Martinez also mistakenly believed that the School District was required to select its service provider prior to filing FCC Form 470.
8. In November and December 2001, Mr. Martinez initiated a competitive procurement process in accordance with Texas Education Code § 44.031 with the assistance of the School District's Purchasing Coordinator, Larry Doeppenschmidt, to select an internal connections vendor for the School District.

9. On December 10, 2001, the School District's Board of Trustees approved the selection of Avnet Enterprise Solutions ("Avnet") as the vendor for the internal connections. Mr. Martinez submitted FCC Form 470 for Funding Year 2002 on December 10, 2001. The contract with Avnet was dated December 11, 2001. Mr. Martinez posted FCC Form 471 on January 16, 2002. The School District has been unable to determine why Mr. Martinez listed January 14, 2002 as the "contract award date" on FCC Form 471.
10. During a routine audit commenced in 2005, KPMG LLP determined there was an error in the E-rate application process for the internal connections. This was the first time the School District learned of the error. The School District cooperated fully with the audit, and attended an exit interview with KPMG explaining Mr. Martinez's misunderstanding of the FCC Forms 470 and 471 process.
11. On November 14, 2006, in response to the KPMG audit, USAC notified the School District that it would take no action on pending or future FCC Forms 471 until it received additional information from the School District. The School District provided the requested information.
12. The School District believed that the matter had been resolved to USAC's satisfaction and was surprised to receive a demand for payment of \$3,135,350 on June 1, 2007. The School District had not received the December 7, 2006 USAC letters notifying the School District that it would seek recovery of \$3,135,350 because the letters needed to be re-routed internally from the address to where it was mailed to the central administration office and they were addressed to Mr. Martinez.
13. The payment of \$3,135,350 by the School District would create an undue hardship on the operations of the School District. Funds for such a payment are not included in the School District's budget and would need to be drawn from the limited resources allocated to the education of its students, which may include reducing instructional staff and thereby increasing the teacher pupil ratio; reducing instructional supplies, including computer software used to assist our at-risk students; and delaying or foregoing necessary renovations to the School District's facilities that would improve the classroom environment, safety and educational adequacy for the students.
14. I have reviewed the attached Request for Review by Pharr-San Juan-Alamo Independent School District of Decision of Universal Service Administrator and Petition for Waiver and affirm that all facts stated therein are true and correct to the best of my knowledge and belief.

I solemnly affirm, under penalty of perjury, that the preceding statements are true and correct to the best of my knowledge and belief.

Janet Robles  
SIGNATURE OF JANET C. ROBLES  
7/26/07  
DATE

WITNESS:

Signature: Rebecca E. Ocañas

Print Name: Rebecca E. Ocañas

Date: 7-26-07

# **Exhibit B**

### **AFFIDAVIT OF DANIEL SAENZ**

I, Daniel Saenz, hereby declare and affirm that the following statements are true and correct.

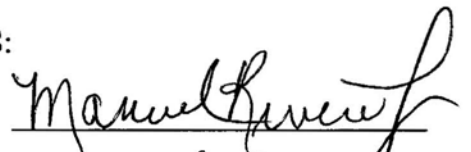
1. I am over 18 years of age and competent to testify to the matters described herein.
2. I am the Director of Instructional Technology for the Pharr-San Juan-Alamo Independent School District (the "School District"). I have worked in the administration of the School District for six (6) years and have held my current position for approximately sixteen (16) months.
3. The School District has participated in the Commission's E-rate program since its inception and relies on the discounts it receives through the E-rate program to ensure that its schools have access to telecommunications services and infrastructure. Purchases made with E-rate funds include local and long-distance telephone service, network equipment, the network cabling of schools, Internet access, video conferencing components and wireless equipment. The School District relies on the E-rate program to assist the School District in meeting the technology requirements and policy goals of the Texas Education Agency and the State Board of Education, as well as technology standards that are increasingly required by the state and federal governments. The School District believes that the technology resources it has provided as a result of E-rate funding has improved the education of its students.
4. The School District's student population is so underprivileged that the School District is eligible for the maximum USAC discount level of 90%.
5. Without E-rate benefits provided in the past and funds anticipated in the future, the School District would be unable to obtain affordable telecommunications services and Internet access.
6. The School District depends on E-rate funding to manage the growth of the student population of the School District, which is approximately 1,000 students per year, which equates to nearly one school per year. For example, currently the School District is constructing building additions for eight of its current schools and is building one new elementary school.
7. All E-rate applications submitted by the School District to USAC since Funding Year 2002 have complied with the 28-day rule.
8. To ensure that no further errors occur in the filing of E-rate applications, the School District has created an E-Rate Committee that is responsible for preparing and overseeing the School District's participation in the E-rate program. The members of the E-Rate Committee, which was initially formed in April 2006 as the Technology Advocacy Council, are all involved in the preparation and review of the School District's participation in the E-rate program and are required to participate in E-rate training sessions.

9. The School District has applications for Funding Years 2005-2007 still pending before USAC that appear to be delayed as a result of the status of the Application for Funding Year 2002. USAC requested additional information to process the pending applications as a result of the audit for Funding Year 2002. The School District sent the requested information to USAC. Based on my interactions with USAC's Audit Response team as a result of submitting this information, the School District believed that the Funding Year 2002 matter has been resolved to USAC's satisfaction and was quite surprised to receive the Demand Payment Letter demanding \$3,135,350.
10. Without E-rate funding for the past two years, the School District has been seriously hindered in its ability to maintain and upgrade its telecommunications services. For example, the School District currently has no maintenance contract on its network infrastructure, which is susceptible to damages or outages in severe weather that is commonplace during hurricane season.
11. I have reviewed the attached Request for Review by Pharr-San Juan-Alamo Independent School District of Decision of Universal Service Administrator and Petition for Waiver and affirm that all facts stated therein are true and correct to the best of my knowledge and belief.

  
SIGNATURE OF DANIEL SAENZ

7-26-07  
DATE

WITNESS:

Signature:   
Print Name: MANUEL RIVERO JR  
Date: 7-26-07

# **Exhibit C**



Mr. D. Scott Barash, Acting Chief Executive Officer  
Mr. Wayne Scott, Vice President – Internal Audit Division  
Universal Service Administrative Company  
2000 L Street, N.W., Suite 200  
Washington, DC 20036

KPMG LLP is pleased to submit this performance audit relative to Pharr-San Juan-Alamo Independent School District, Beneficiary No. 141667 ("Beneficiary"), for Funding Year ("FY") 2002, in accordance with our contract with Universal Service Administrative Company ("USAC"). USAC engaged us to perform a series of performance audits for FYs 2002 and 2003 to meet the objectives identified in the Objectives and Scope section of this report.

Since March 6, 2006, we have not performed any additional audit procedures with respect to this report and have no obligation to update this report or to revise the information contained therein to reflect events occurring subsequent to March 6, 2006.



## **Executive Summary**

We were engaged by Universal Service Administrative Company (“USAC”) to conduct performance audits for Funding Years (“FY”) 2002 and 2003. The objectives of our audits were: (1) to provide an independent assessment of selected beneficiaries’ compliance with the regulations governing the *Schools and Libraries Universal Service Support Mechanism* (“SLSM” or “E-Rate”), set forth in 47 C.F.R. Part 54, and certain USAC implementing procedures which were established consistent with 47 C.F.R. Part 54 and other existing laws or regulations (collectively, “the Rules”); (2) to identify selected beneficiaries’ noncompliance, if any, with certain other USAC implementing procedures related to the SLSM; (3) to identify other beneficiary-specific or SLSM-related conditions that we believe warrant the selected beneficiaries’ or USAC’s attention in an effort to provide greater E-Rate program effectiveness or consistency among beneficiaries; and (4) to identify improper payments made from the Universal Service Fund related to the selected beneficiaries for the years under audit.

### **Scope of Audit**

This report relates to the performance audit conducted relative to Pharr-San Juan-Alamo Independent School District, Beneficiary No. 141667 (“Beneficiary”), for FY 2002. The Beneficiary is located in Pharr, Texas. This performance audit was conducted in accordance with *Government Auditing Standards (2003 Revision)*.

We collaborated with USAC and the Federal Communications Commission Office of Inspector General to develop our basic workplan, and included other procedures when determined necessary to meet the engagement objectives. The scope of this engagement included, but was not limited to, reviewing the Beneficiary’s processes for program application, service provider selection and contracting, and program cost reimbursement.

For FY 2002, amounts totaling \$3,488,019 were disbursed by SLSM on behalf of the Beneficiary under 10 Funding Request Numbers (“FRN”). Those FRNs included amounts for telecommunication services, Internet access and internal connections.

### **Summary of Testwork**

We performed audit procedures on a Beneficiary-wide level related to the application process for participation in the E-Rate program. Those procedures included reading the Beneficiary's audited financial statements, other financial information associated with the E-Rate Program (i.e., other audit reports, budget data, etc.) and technology plan for FY 2002, and evaluating the Beneficiary's calculations of E-Rate discount percentages for which it applied. Our audit was conducted during the period of February 7, 2005 through March 6, 2006.

We selected six FRNs, representing approximately 93% of the total amounts disbursed by SLSM for the Beneficiary related to FY 2002, and performed audit procedures related to the Beneficiary's service provider selection and contracting and program cost reimbursement processes. To test the Beneficiary's reimbursement process, we selected six reimbursement forms from the selected FRNs, which represented 100% of the disbursed amount under those FRNs. Further, we performed site visits at 10 of the Beneficiary's 38 schools. We determined that the selected schools currently had Internet access and telephone service, which were services funded for FY 2002 under selected Beneficiary-wide FRNs.

### **Summary of Results**

Based on the audit procedures performed and for the transactions tested, we conclude that the Beneficiary was not compliant with the Rules identified above for FY 2002, and we identified improper payments totaling \$3,135,350. In addition, the results of our audit procedures disclosed four audit findings and two beneficiary-specific other matters, which are reported herein.

## Background

Universal Service Administrative Company (“USAC”) is an independent not-for-profit corporation that operates under the direction of the Federal Communications Commission (“FCC”) pursuant to 47 C.F.R. Part 54. The purpose of USAC is to administer the Universal Service Fund (“USF”), which was created by The Telecommunications Act of 1996 to ensure that consumers in all regions of the United States have access to quality telecommunications and information services at affordable rates. The USF is comprised of four support mechanisms to ensure that its objectives are met. USAC has engaged KPMG to perform a series of performance audits for Funding Years (“FY”) 2002 and 2003, including the performance audit to which this report relates.

The USAC Schools and Libraries Division (“SLD”) administers the *Schools and Libraries Universal Service Support Mechanism* (“SLSM”), which makes advanced telecommunications affordable for the nation’s schools and libraries. Also known as “E-Rate”, this mechanism provides discounts on the cost of telecommunication services, Internet access and internal connections, with the highest discounts going to entities serving the most disadvantaged sections of the population. In both FYs 2002 and 2003, over 100,000 schools and libraries were funded by the USF.

Pharr-San Juan-Alamo Independent School District, Beneficiary No. 141667 (“Beneficiary”), the subject of this audit, is comprised of 38 schools, and serves approximately 23,000 students. The Beneficiary is located in Pharr, Texas. For FY 2002, SLD received requests for \$4,290,987 for telecommunication services, Internet access and internal connections from the Beneficiary, and committed and disbursed \$4,283,524 and \$3,488,019, respectively, as summarized in Table 1 below:

**TABLE 1: FY 2002 Dollars Requested, Committed and Disbursed**

Service Category	Requested			Committed			Disbursed		
	#			#			#		
	FRNs	Dollars	%	FRNs	Dollars	%	FRNs	Dollars	%
Telecom Services	3	\$ 683,771	16.0%	3	\$ 683,771	16.0%	3	\$ 339,569	9.7%
Internet Access	1	\$ 14,310	0.3%	1	\$ 14,310	0.3%	1	\$ 13,100	0.4%
Internal Connections	6	\$ 3,592,906	83.7%	6	\$ 3,585,443	83.7%	6	\$ 3,135,350	89.9%
<b>Totals</b>	<b>10</b>	<b>\$ 4,290,987</b>	<b>100.0%</b>	<b>10</b>	<b>\$ 4,283,524</b>	<b>100.0%</b>	<b>10</b>	<b>\$ 3,488,019</b>	<b>100.0%</b>

## Objectives and Scope

The performance audit was conducted in accordance with *Government Auditing Standards (2003 Revision)*.

The workplan was developed in coordination with USAC and the Federal Communications Commission Office of Inspector General ("FCC OIG"). The objectives of the performance audit were:

- (1) to provide an independent assessment of selected beneficiaries' compliance with the regulations governing the *Schools and Libraries Universal Service Support Mechanism* ("SLSM" or "E-Rate"), set forth in 47 C.F.R. Part 54, and certain USAC implementing procedures which were established consistent with 47 C.F.R. Part 54 and other existing laws or regulations (collectively, "the Rules");
- (2) to identify selected beneficiaries' noncompliance, if any, with certain other USAC implementing procedures related to the SLSM;
- (3) to identify other beneficiary-specific or SLSM-related conditions that we believe warrant the selected beneficiaries' or USAC's attention in an effort to provide greater E-Rate program effectiveness or consistency among beneficiaries; and
- (4) to identify improper payments made from the Universal Service Fund related to the selected beneficiaries for the years under audit.

For purposes of this report, the following definitions are provided:

<b>Audit finding</b>	a condition that, in our judgment, evidences non-compliance with the Rules
<b>Other matter</b>	a condition that, in our judgment, evidences non-compliance with USAC implementing procedures not considered in the definition of the Rules or is a condition we believe warrants the beneficiary's or USAC's attention, in an effort to provide greater E-Rate program effectiveness or consistency among beneficiaries
<b>Improper payment</b>	a reimbursement made that, in our judgment, was not in accordance with the Rules

Following is the timeline and phases for this performance audit:

- |                       |                               |
|-----------------------|-------------------------------|
| • Planning            | February 7 – 11, 2005         |
| • Fieldwork           | February 15 – March 4, 2005   |
| ◦ Entrance Conference | February 15, 2005             |
| ◦ Exit Conference     | March 4, 2005                 |
| • Wrap-Up / Reporting | March 7, 2005 – March 6, 2006 |

Throughout the fieldwork phase, status updates were provided to the Beneficiary, allowing timely discussions and follow-up on potential audit findings and other matters. Upon completion of fieldwork, an exit conference was held with the Beneficiary to discuss the results of the audit and the beneficiary response process. Beneficiary responses are included in the "Conclusion; Audit Findings; Other Matters; and Beneficiary and SLD Responses" section of this report.

We performed the audit procedures described in this report primarily at the Beneficiary's location and by using information provided to us by USAC and the Beneficiary in advance of our visit to the Beneficiary. As part of the scope of our performance audit, we obtained an understanding of the specific internal controls relevant to the E-Rate program. Because of inherent limitations, a study and evaluation made for the limited purpose of the performance audit would not necessarily disclose all material weaknesses in the internal control structure. Further, this performance audit was not designed to, and does not, include a conclusion or opinion on the Beneficiary's internal control processes.

The performance audit procedures were classified in the following categories: General Procedures; Application Process; Service Provider Selection and Contracting Process; and Reimbursement Process. Following is a summary of the audit procedures performed:

#### **General Procedures**

General procedures are those audit procedures that address matters that are not related to any of the identified processes, or those that may have related to all of the identified processes.

### *FRN Selection for Testing*

We judgmentally selected six Funding Request Numbers (“FRN”) related to the Beneficiary for FY 2002. An FRN is the tracking number assigned by SLD to an E-Rate application for funding. The number of FRNs selected was determined based on the time planned to conduct the performance audit, while attempting to achieve the following two objectives: (1) select at least one FRN from each service category for which disbursement was made from USF funds and (2) select enough FRNs to achieve at least 25% coverage of total dollars disbursed, with a bias toward FRNs related to internal connections, the service category for which we have evaluated the risk of non-compliance to be the highest. Table 2 below includes a summary of the amounts disbursed by SLSM related to the Beneficiary for FY 2002 in total and under the selected FRNs:

**TABLE 2: FY 2002 Disbursed Dollars in Total and Selected for Testing**

Service Category	# FRNs	% of Total Disbursed Dollars by Category		# FRNs	% of Total Disbursed Dollars for Selected FRNs	
		Total Disbursed Dollars			Disbursed Dollars for Selected FRNs	
Telcomm Services	3	\$ 339,569	9.7%	1	\$ 162,779	47.9%
Internet Access	1	\$ 13,100	0.4%	1	\$ 13,100	100.0%
Internal Connections	6	\$ 3,135,350	89.9%	4	\$ 3,065,328	97.8%
<b>Totals</b>	<b>10</b>	<b>\$ 3,488,019</b>	<b>100.0%</b>	<b>6</b>	<b>\$ 3,241,207</b>	<b>92.9%</b>

### *Review of Other Audit Reports*

We read the Beneficiary’s Office of Management and Budget (“OMB”) Circular A-133 audit report for the fiscal year including FY 2002 to identify any audit findings that may have impacted the Beneficiary’s compliance with the Rules, and to determine if the Beneficiary had taken corrective action relative to such audit findings. No such matters were identified in the Beneficiary’s OMB Circular A-133 audit report for the fiscal year ended June 30, 2003.

We also inquired of USAC and FCC OIG as to whether any other audits or investigations of the Beneficiary, relative to the E-Rate program, had been, or were being, conducted by their respective audit staffs. No such audits or investigations were identified.

## **Application Process**

### *Introduction*

To participate in the E-Rate program, a potential beneficiary must meet certain eligibility requirements. For purposes of this audit, we considered the Beneficiary's financial position, compliance with the Rules related to the Beneficiary's technology plan, and the calculation of the Beneficiary's discount percentage upon application to USAC.

### *Summary of Audit Procedures*

We made inquiries of Beneficiary personnel and examined the Beneficiary's audited financial statements, for the fiscal years relevant to FY 2002, to determine if the Beneficiary had endowments exceeding \$50 million, which would have rendered it ineligible for discounts under the E-Rate program.

We obtained and read the Beneficiary's Technology Plan for FY 2002 and determined whether it was properly and timely approved and included the core elements of successful school and library technology initiatives as identified by USAC.

We examined documentation supporting the Beneficiary's E-Rate discount percentage calculation. To validate the accuracy of the discount percentage, we recalculated the discount percentage in accordance with the eligibility rules for the E-Rate program.

We determined, by reference to the Beneficiary's fiscal year budgets, or other proof of funding, whether the Beneficiary had all of the necessary funding budgeted / available and approved to pay for its non-discounted portion for the requested products and services for FY 2002.

We examined documentation provided by the Beneficiary to determine whether a staff training program, designed to instruct teachers how to incorporate those goods and services into educational instruction, was in place at the time of application for E-Rate funding.

We determined through inquiry of Beneficiary personnel and observation during our site visits (see "Reimbursement Process – Summary of Audit Procedures" below) whether the Beneficiary had the appropriate hardware and software infrastructure to utilize the goods and services for which E-Rate funding was requested.

By examination of E-Rate related documents provided by both USAC and the Beneficiary, we determined whether the Beneficiary indicated compliance with certain requirements of the Children's Internet Protection Act ("CIPA") for FY 2002. Further, we gained an understanding of the Beneficiary's Internet Safety Policy, and the process by which the Beneficiary communicates and administers that policy. During site visits to a selection of the Beneficiary's schools (see "Reimbursement Process" below), we tested certain computers to validate the existence of the Beneficiary's technology protection measure (i.e., filter).

#### *Summary of Audit Findings and Other Matters*

When performing the application process audit procedures, we identified two audit findings related to the Beneficiary not meeting the requirement to have an approved technology budget prior to filing an FCC Form 470, and the discount calculation presented on the FCC Form 471 not matching documentation maintained by the Beneficiary for five of 38 schools, which are reported as Audit Finding Nos. 141667-F-2002-01 and 141667-F-2002-02 herein.

### **Service Provider Selection and Contracting Process**

#### *Introduction*

The service provider selection and contracting process includes the procurement process and competitive bidding process, when applicable, by which the Beneficiary selected its E-Rate service providers and established its related contracts for eligible goods and/or services. The audit procedures addressed the Beneficiary's procurement process and the eligibility of goods and services procured using E-Rate funds.

#### *Summary of Audit Procedures*

From the six selected FRNs, we selected 100% of the related reimbursement forms for use in performing the audit procedures related to the service provider selection and contracting and reimbursement processes. See Appendix 1 for identification of the selected FRNs and reimbursement forms.

We obtained an understanding of the Beneficiary's service provider selection and contracting process, including the related competitive bidding activities, through discussions with Beneficiary personnel and review of documentation provided by the Beneficiary. We used this information to determine if the design of that process was consistent with the Rules. For the service providers associated with the selected FRNs,



we determined whether the Beneficiary followed its service provider selection process procedures, including those for competitive bidding (as applicable), and properly completed and utilized FCC Forms 470 (Services Requested and Certification Form) and 471 (Services Ordered and Certification Form). We also inquired as to what, if any, assistance the Beneficiary received relative to completion of the FCC Forms and selection of the winning bidders. Further, we determined whether the selected service providers had properly completed FCC Form 473 (Service Provider Annual Certification) for FY 2002.

For each product or service acquired under the selected FRNs, we obtained the service provider bills and related contracts, when applicable. The products and/or services identified on such bills and contracts were compared to the FY 2002 Eligible Services List (“ESL”) published by SLD to determine if those products or services were appropriate for E-Rate discount under the Rules. The selected products and/or services identified on the service provider bills and contracts, for which discounts were sought, were also compared to the Beneficiary’s FCC Form 470 to determine consistency of products and/or services described therein.

#### *Summary of Audit Findings and Other Matters*

We identified one audit finding in performance of the service provider selection and contracting process audit procedures related to the Beneficiary not adhering to the 28-day competitive bidding window, which is reported as Finding No. 141667-F-2002-03 herein.

### **Reimbursement Process**

#### *Introduction*

The reimbursement process encompasses the Beneficiary’s procedures for processing and paying invoices for allowable program disbursements, the Beneficiary and service providers’ requests for reimbursement from SLSM, and the receipt of reimbursed discounted amounts by the Beneficiary from the service providers, in cases where the Beneficiary had paid such amounts to the service providers prior to disbursement by SLSM. The audit procedures for this process addressed each of the foregoing and included site visits to selected schools to determine if the goods and/or services, for which disbursement was made by SLSM, were in place and operational at the time of our visit.

### *Summary of Audit Procedures*

We obtained an understanding of the Beneficiary's cash disbursement process, including invoice review and approval requirements, from discussion with, and documentation provided by, Beneficiary personnel to determine if the design of that process included safeguards to prevent violations of the Rules. For the selected reimbursement forms (identified in Appendix 1), we determined whether the related service provider bills (either in their entirety or for the beneficiary portion only) were paid in accordance with the Beneficiary's cash disbursement process and that the costs for the products and/or services appeared reasonable. If the service provider bills included any substitute products or services, we compared those items to the FY 2002 ESL and to the substitution authorization issued by SLD.

We obtained the selected reimbursement forms prepared by the Beneficiary (FCC Form 472 – Billed Entity Applicant Reimbursement ("BEAR")) or by the service providers (FCC Form 474 – Service Provider Invoice ("SPI")). The discount percentages claimed on those reimbursement forms were compared to those approved by USAC in the Funding Commitment Decision Letters issued to the Beneficiary and verified whether it was applied appropriately. For service provider bills related to the selected reimbursement forms that included products, we compared the information on the service provider bills (including make, model and serial number, where applicable) to the Beneficiary's asset/inventory records to verify inclusion of these items in the Beneficiary's property records.

For selected reimbursements for which SPI forms were submitted by the service providers, we compared the related bills to the SPI forms to determine whether the service provider sought reimbursement for the appropriate amount from SLSM and whether total billed costs (to SLSM and to the Beneficiary) were less than or equal to the total cost of the eligible products and/or services authorized under the FRN.

For selected reimbursements for which the Beneficiary submitted BEAR forms, we compared the related bills to the BEAR forms to determine whether the Beneficiary sought reimbursement for the appropriate amount from SLSM and whether the BEAR form was dated subsequent to the date that the service provider bill was paid by the Beneficiary. We also determined whether the service provider paid the Beneficiary in a timely manner after USAC paid the service provider for the selected BEAR form reimbursements, and we examined evidence of deposit of proceeds by the Beneficiary related to those reimbursements.

We also determined whether the Beneficiary requested reimbursement for less than the amounts committed by USAC under the selected FRNs. If so, and the amount of unused commitment exceeded \$1,000, we determined whether an FCC Form 500 was completed and filed with USAC.

We selected the Beneficiary's schools identified in Table 3 below for site visits. The number of schools selected for site visits was determined based on the budgeted time to conduct the site visit component of the performance audit, while attempting to achieve the following two objectives: (1) select at least five of the Beneficiary's schools which received services funded by the USF in FY 2002 under the selected FRNs and (2) include schools in our selection which received relatively higher amounts of E-Rate funding and those which received internal connections funding under the selected FRNs, with such bias toward internal connections because we have evaluated the risk of non-compliance for internal connections to be the highest of the service categories.

**TABLE 3: Locations Selected for Site Visits**

Entity Number	School Name
91529	Daniel Ramirez Elementary
91302	Franklin Elementary
91591	PSJA High School
91530	PSJA North High School
225119	San Juan Middle School
91524	Teenage Parent Program

For each site visit, personnel with responsibility for overseeing and/or implementing the technology plan were interviewed. The purpose of the interviews were: (1) to determine that the E-Rate funded products and/or services included in the selected FRNs had been received at the school; and (2) to gain an understanding of the use being made of those products and/or services and how the purchased equipment, if any, is safeguarded. We then determined by observing specific items whether the E-Rate funded products and/or services included in the selected FRNs were installed and operational.

During the initial site visits, we noted that eleven equipment items were not installed in the location listed on the inventory provided by the Beneficiary. While not all equipment was located, the Beneficiary was subsequently able to locate eight of the eleven equipment items. We then conducted secondary site visits at five sites, which included performing procedures to locate the eight pieces of equipment from the original six sites. These additional five schools are identified in Table 3a below.

**TABLE 3a: Expanded Site Visit Sample**

Entity Number	School Name
91584	Information Technology Building
91584	Garza Pena Elementary
91587	Carman Elementary
91521	Whitney Elementary
91591	PSJA High School (revisit)

***Summary of Audit Findings and Other Matters***

When performing the reimbursement process audit procedures, we identified one audit finding related to missing E-Rate equipment, which is reported as Finding No. 141667-F-2002-04 herein. Additionally, we noted two beneficiary-specific other matters related to the Beneficiary not completing an FCC Form 500 in a timely manner and not reporting service substitutions, which are reported as Other Matter Nos. 141667-M-2002-01 and -02 herein.

**Conclusion; Audit Findings; Other Matters; and Beneficiary and SLD Responses**

In reaching our conclusion on compliance related to the audit procedures performed and the transactions tested during the performance audit, we considered and based that conclusion on the number of audit findings and the monetary effect of such audit findings.

**Conclusion**

Based on the audit procedures performed and for the transactions tested, we conclude that the Beneficiary was not compliant with the Rules, as defined in the Objectives and Scope section above, for FY 2002. The results of our auditing procedures disclosed four audit findings related to the Beneficiary not meeting the requirement to have an approved technology budget prior to filing an FCC Form 470; discount rate calculation errors; the Beneficiary not adhering to the 28-day competitive bidding window, and missing E-Rate equipment, which are reported as Audit Finding Nos. 141667-F-2002-01 through -04 herein. In addition, the results of our audit disclosed two beneficiary-specific other matters related to the Beneficiary not completing an FCC Form 500 in a timely manner and not reporting service substitutions, which are reported as Other Matter Nos. 141667-M-2002-01 and -02 herein.

**Audit Finding**

***Audit Finding No.***                      ***141667-F-2002-01***

***Condition***                                      The Beneficiary's budget was not approved before submission of its FY 2002 FCC Form 470. The Beneficiary budgeted sufficiently, and obtained approval for its budget that addressed FY 2002; however, the budget was approved in August 2002, nine months after the submission of its FY 2002 FCC Form 470.

***Criteria***                                        Per FCC Rule 54.504(b)(2)(v), applicable for FY 2002, at the time the Beneficiary submits the FCC Form 470, all of the necessary funding must have been budgeted and approved to pay for its non-discounted portion for the requested assets and services for the funding year.

***Cause***    The budget cycle of the Beneficiary does not lend itself to the timing required by the Rules.

***Effect***    There is no monetary effect from this audit finding, since all non-discounted costs were paid by the Beneficiary to the service providers.

***Recommendation***                        KPMG has no recommendation for the Beneficiary at this time and notes that the above referenced criterion is no longer included in the Rules.

***Beneficiary Response***                    The district exceeded the FCC Rule 54.504(b)(2)(v) when it submitted its Form 470. Any district would find it difficult to merely comply with the FCC's Rule of budgeting funds that may or may not (contingent upon the funding commitment letter) be spent in a subsequent year. The district's budget is approved annually through the school board. In complying with the FCC rule, the district will have to submit a budget to the board of education two to three years ahead of the Funding Year it is intended for. This isn't possible since we are required by state law to adopt an annual budget and set an annual tax rate. Unspent funds at the end of each fiscal year are returned to the

General Fund Balance for designation. The designation of fund balance is board approved and can remain designated over several years until the board again takes action to change this designation. This is the process our district felt was the most appropriate and conservative approach to ensuring that the funding would be available for a subsequent year. We would greatly appreciate knowing how other State funded schools met this requirement and exactly what is the wording they use to satisfy the FCC Rule.”

***SLD Response***

In two places of the application process, the applicant is required to certify to certain information with respect to securing access to the resources necessary to use the services for which discounts are being sought. First, in Item 23 of the FCC Form 470 the applicant acknowledges that it is required to have “...all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. ” The applicant also certifies “... that some of the aforementioned resources are not eligible for support.” Second, in Item 25 of the FCC Form 471, the applicant certifies that it has “secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively...[It] certif[ies] that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider.”

Funding Year 2002 Program Rules required that the applicant have the required resources when it filed its FCC Form 470. On August 13, 2004, the FCC changed the Rules and modified this requirement in the *Fifth Report and Order*<sup>1</sup>. The new FCC Rule 54.504(b)(2)(vi) states that “[s]upport under this support mechanism is conditional upon the school(s) and library(ies) securing access to all of the resources, including computers, training, software, maintenance, internal connections, and electrical connections necessary to use the services purchased effectively.” Schools and libraries, therefore, are no longer required to have secured access to the necessary resources at the time they file the FCC Form 470.

In the case of Pharr-San Juan-Alamo Independent School District the fact that it paid its non-discounted share indicates the District had the resources; therefore, no recovery is required. SLD management concurs with the audit finding.

<sup>1</sup> See *Fifth Report and Order* at para. 66.

**Audit Finding No.**

**141667-F-2002-02**

**Condition**

Discount calculation discrepancies were identified for 5 of 38 entities upon recalculation of the discount percentage for each entity included on the Beneficiary's FY 2002 FCC Form 471, Block 4. The recalculations were based on the supporting documentation provided by the Beneficiary, and those recalculated amounts were compared to the data included on the FCC Form 471.

**Criteria**

FCC Rule 54, section 505 addresses discount calculations. Block 4 of the FCC Form 471 outlines student enrollment, number of students under the National School Lunch Program (“NSLP”), percentage of NSLP students over total students enrolled, discount percentage assigned from the SLD Discount Matrix, and specific information about the entity such as entity number and name.

***Cause***                      Errors arising out of the Beneficiary's process to transfer information from the Food Administrative Services department to those individuals responsible for filing the FCC Form 471 led to the conditions of this audit finding.

***Effect***                      There was no monetary impact from this audit finding because the miscalculations did not lead to a change in the applied discount rates.

***Recommendation***                      Prior to submitting the FCC Form 471, the Beneficiary should ensure that documentation matches the information submitted on the form and that the information presented to support the discount calculation is accurate.

***Beneficiary Response***                      In the past, the department with the count of eligible students for the NSLP program would generate a spreadsheet simplifying the information and forward it to the department preparing the Form 471. The information would then be re-created by the receiving department to further simplify the information. Somewhere in this process a single student was omitted/added to 4 out of 38 campuses. The district has informed the originating department to simplify the information in a format that would be suitable for completing the Form 471 so that the receiving department does not have to re-create the same information. This should eliminate the chance of errors or omissions. The District has also emphasized that all documentation should match exactly to the information presented on the Form 471 no matter how immaterial the difference.

***SLD Response***                      There is no monetary effect on the Beneficiary as a result of this finding since the weighted average discount rate was not affected by the miscalculation. Further guidance regarding discount calculations can be found in the instructions to the FCC Form 471 and on USAC's website. SLD management concurs with this finding and recommendation.



**Audit Finding No. 141667-F-2002-03**

**Condition**

For the internal connections project, the Beneficiary selected its vendor prior to the close of the 28-day window for service provider selection. The vendor, Avnet, was selected and awarded on December 11, 2001, prior to the allowable contract date of January 7, 2002. Rather than use this open window, the Beneficiary selected potential bidders from the Texas General Services Commission vendor listing. (Note that Avnet was later replaced by The Presidio Corporation.)

**Criteria**

FCC rule 54.504(b)(vii) 4 states that the beneficiary must wait at least four weeks after the submission of the FCC Form 471 before selecting a service provider.

**Cause**

Personnel changes at the District required a new personnel assignment to the E-Rate process, and the newly appointed individual for FY2002 was unfamiliar with the form filing timetables as they related to the FCC Form 470 and 471. Specifically, the individual thought vendor selection needed to be completed prior to filing the FCC Form 470.

**Effect**

The monetary effect of this audit finding is \$3,135,350, the amount of funds disbursed under the six FRNs for the Avnet project.

FRN	Disbursed Amount
810283	\$2,222,687
810370	\$317,680
810449	\$172,526
810517	\$60,245
810851	\$352,434
810889	\$9,778
	<b>\$3,135,350</b>

**Recommendation** While the state approved vendor listing is an appropriate means of selecting bidders, the Beneficiary should ensure that potential vendors are selected only after the close of the mandatory 28-day open competitive bidding process.

**Beneficiary Response** As noted by your audit team, it appears that the Forms 470 and 471 were used interchangeably by district personnel, therefore, resulting in confusion concerning deadlines and requirements. This was an isolated incident precipitated by the replacement of the position responsible for E-Rate with an individual new to the process. Each round since has complied with the mandatory 28-day open competitive bidding process.

**SLD Response** FCC Schools and Libraries Program Rule 54.504 states, that the entity “....shall then wait at least four weeks from the date on which its description of services is posted on the Administrator’s website before making commitments with the selected service providers.” The applicant selected its vendor prior to the allowable contract date circumventing the 28 day window for the competitive bidding process. SLD management concurs with the finding and recommendation, and will seek recovery consistent with FCC Rules and Orders.

**Audit Finding No.** 141667-F-2002-04

**Condition** During site visits, it was noted that three Cisco 3508 switches purchased with E-Rate funds could not be located.

**Criteria** USAC guidance states that all equipment purchased with E-Rate funds must be installed and operational at the intended site.

**Cause** The Beneficiary was not consistent in updating the inventory listing as necessary to appropriately monitor the location and use of this equipment.

***Effect***

The monetary effect resulting from this audit finding is \$8,294, the discounted cost of the three equipment items (\$9,216 total cost multiplied by the 90% discount rate), which is subject to recovery by USAC. Note that this \$8,294 amount was included in the monetary effect of Audit Finding No. 128086-F-2003-03.

***Recommendation***

The Beneficiary should account for the missing equipment and ensure that E-Rate equipment is tracked appropriately going forward.

***Beneficiary Response***

The district provided documentation from the vendor that indeed these switches were installed and operable during funding year 2002. However, in a subsequent funding year, these switches were upgraded and replaced. The district has reminded all technicians, that all equipment should be accounted for prior to the departure of the vendor from the district's premises.

***SLD Response***

Pursuant to 47 C.F.R. §54.507 (d), all equipment purchased with E-rate funds must be installed and be operational to service the site(s) referenced on the FCC Form 471. While the School District indicated they were installed and operable in FY 2002, the District did not have adequate tracking records to identify the current location of the equipment. SLD management concurs with this finding, effect and recommendation. It should be noted the dollars associated with this finding are also included in finding 3.

**Other Matters**

***Other Matter No.***

***141667-M-2002-01***

***Condition***

The Beneficiary had an excess of \$795,505 in total committed funds over total expended funds for FY 2002 that were not adjusted in a timely manner, by utilizing FCC Form 500. Total committed funds for E-Rate FY 2002 were \$4,283,524 and total disbursed funds for the same funding year were \$3,488,019.

<b><i>Criteria</i></b>	Per the FCC Form 500 and related instructions, the Beneficiary should complete an FCC Form 500 to modify any FRN for which funds are not completely expended. By filing an FCC Form 500, the unexpended funds become available for potential award to other applicants.
<b><i>Cause</i></b>	The Beneficiary was unaware of the need to file a FCC Form 500.
<b><i>Effect</i></b>	There is no monetary effect on the Beneficiary as a result of this other matter; however, unused amounts for FY 2002 of \$795,505 could have, potentially, been utilized for other applicants.
<b><i>Recommendation</i></b>	The Beneficiary should file an FCC Form 500 when it determines committed funds will not be used during the funding year. This will allow other beneficiaries to take advantage of the E-Rate funds.
<b><i>Beneficiary Response</i></b>	Several district personnel have attended workshops and trainings on E-Rate requirements. The use of Form 500 in this manner has never been mentioned or recommended. The USAC should emphasize this issue either via e-mail or on its BEAR Notification Letter sent to the beneficiaries notifying them to de-obligate the funds for that particular FRN if there are no further reimbursements/appeals pending.
<b><i>SLD Response</i></b>	There is no E-rate Program Rule requiring applicants to complete FCC Form 500 to report unexpended funds. Through outreach and training, USAC will continue to encourage applicants to complete and submit FCC Form 500 when committed funds are not needed. USAC concurs with this matter and recommendation.

***Other Matter No.***                      ***141677-M-2002-02***

***Condition***                              We compared service provider bills and the Beneficiary's fixed asset listing to the FCC Form 471, Item 21 Attachment, and we noted that there were certain equipment substitutions. We were unable to find any correcting service substitution requests filed with USAC. Service provider bills listed different equipment than the equipment listed on the Beneficiary's FCC Form 471, Item 21 Attachment.

***Criteria***                                Per USAC guidance, beneficiaries must obtain approval of service substitutions from SLD. Requests for approval of a service substitution should be in writing to SLD and the request must contain specific information related to the service substitution.

***Cause***                                  The Beneficiary was unaware of the requirement to obtain pre-approval from SLD to support substitutions from the service provider quotes.

***Effect***                                 There is no monetary impact on the Beneficiary as a result of this other matter, since the overall cost of the FRN did not increase as a result of the substituted products obtained, and the substituted products obtained had the same functionality as those products submitted and approved on the Beneficiary's FCC Form 471.

***Recommendation***                The Beneficiary should submit a correcting service substitution request to SLD prior to the end of the related funding year. Pre-approved or correcting service substitution request information is located on USAC's Schools and Libraries' Reference section under the topic "Service Substitutions".

***Beneficiary Response***            The substitution in equipment was not as a result of the spin change. From the beginning of the process (request for proposals) to the actual work beginning by the vendor, the equipment was out dated and newer less expensive models were used.

***SLD Response***

All substituted products were eligible based on the Eligible Services List and the substituted products met the requirements for an eligible service substitution. Therefore, the fact the applicant did not request a service substitution does not warrant recovery. Going forward the applicant should submit a request to USAC for service substitutions. SLD management agrees with the matter, effect, and recommendation.

**Improper Payments**

Based on the audit procedures performed and for the transactions tested for FY 2002, we noted improper payments of \$3,135,350 related to Audit Finding Nos. 141667-F-2002-03 and -04.

**APPENDIX I: Selected FRNs, Related Reimbursement Forms, and Reimbursement Forms Selected for Testing**

				Reimbursement Forms for Selected FRNs		Reimbursement Forms Selected for Testing	
Selected FRNs	SPIN #	Service Provider	Form Type	#	\$\$\$	#	\$\$\$
809708	143004662	Southwestern Bell Telephone Company	BEAR-472	0	\$ 0	0	\$ 0
			SPI-474	1	162,779	1	162,779
			Total	1	\$ 162,779	1	\$ 162,779
809848	143011242	University of Texas - Austin	BEAR-472	1	\$ 13,100	1	\$ 13,100
			SPI-474	0		0	
			Total	1	\$ 13,100	1	\$ 13,100
810283	143015315	The Presidio Corporation	BEAR-472	0	\$ 0	0	\$ 0
			SPI-474	1	2,222,687	1	2,222,687
			Total	1	\$ 2,222,687	1	\$ 2,222,687
810370	143015315	The Presidio Corporation	BEAR-472	0	\$ 0	0	\$ 0
			SPI-474	1	317,681	1	317,681
			Total	1	\$ 317,681	1	\$ 317,681
810449	143015315	The Presidio Corporation	BEAR-472	0	\$ 0	0	\$ 0
			SPI-474	1	172,526	1	172,526
			Total	1	\$ 172,526	1	\$ 172,526
810851	143015315	The Presidio Corporation	BEAR-472	0	\$ 0	0	\$ 0
			SPI-474	1	352,434	1	352,434
			Total	1	\$ 352,434	1	\$ 352,434
Totals				6	\$ 3,241,207	6	\$ 3,241,207

# **Exhibit D**



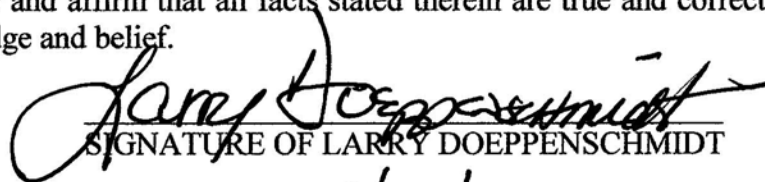
### **AFFIDAVIT OF LARRY DOEPPENSCHMIDT**

I, Larry Doeppenschmidt, hereby declare and affirm that the following statements are true and correct.

1. I am over 18 years of age and competent to testify to the matters described herein.
2. I am the Purchasing Coordinator for the Pharr-San Juan-Alamo Independent School District (the "School District"). I have worked for the School District for eleven (11) years and have held my current position for that entire period.
3. The School District is a member of the Cooperative Purchasing Program ("Co-Op Program") of the Texas Building and Procurement Commission, the official purchasing arm of the State of Texas (formerly known as the Texas General Services Commission) ("TBPC"). Purchases made through the Co-Op Program satisfy applicable Texas state purchasing statutes and competitive bidding requirements. TBPC maintains lists of registered vendors who receive bids based on the products and/or services they can provide to the State and its organizations. The School District identified vendors on the TBPC list who could provide the services required by the School District.
4. The School District solicited competitive sealed written quotes in November and December 2001 from four vendors on TBPC's list for the internal connections for Funding Year 2002. A mandatory pre-quote meeting was held on November 26, 2001. All four vendors walked through the E-rate eligible campuses of the School District to determine their costs for the project.
5. The School District received four competitive sealed written quotes, which were opened on December 3, 2001. Mr. Martinez explained to me that the company that technically submitted the lowest quote in terms of price did not in fact present an offer that satisfied the technical specifications of the School District's project. For example, the company offered a lower grade of cabling that the School District required. Therefore, the quote was considered non-responsive. That made Avnet Enterprise Solutions ("Avnet") the lowest bidder in terms of vendors that responded to the requirements as specified by the School District.
6. On December 5, 2001, Mr. Martinez submitted a formal memorandum to me regarding all the quotes that had been received, including the one that had been non-responsive. He stated in the memorandum that the deadline to submit FCC Form 470 was December 15, 2001. Mr. Martinez recommended awarding the contract to Avnet. In his memorandum, Mr. Martinez took the opportunity to point out that, although the other vendor had submitted a quote that was technically lower in price (7.4%) as described in paragraph 7 above, Avnet had been a partner for the School District for four prior rounds of E-rate funding, was familiar with the School District network and the School District's expectations, had a local presence and technical staff that had provided quick response time for the School District's technical

emergencies, and had gained the School District's confidence that Avnet has the supporting resources needed by the School District.

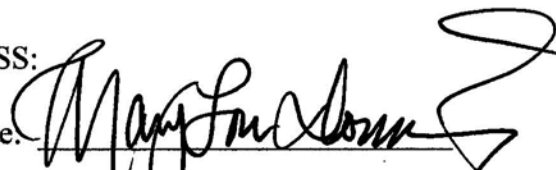
7. The recommendation to award the contract to Avnet was submitted to the Office of the Superintendent of Schools for consideration at the December 10, 2001 meeting of the School District's Board of Trustees. The recommendation was adopted by the Board at that meeting.
8. Although Mr. Martinez stated on FCC Form 470 that the School District had a request for proposal ("RFP") for the internal connections that would be provided upon contacting Mr. Martinez, Mr. Martinez never informed me that any vendor had contacted him to request a copy of any RFP. I would have been responsible for preparing such a RFP. No vendor, including the three vendors that submitted competitive sealed written quotes but were not awarded the contract, expressed any objections to the School District about the procurement process, the E-rate FCC forms that were filed or any other aspect of the matter.
9. I have reviewed the attached Request for Review by Pharr-San Juan-Alamo Independent School District of Decision of Universal Service Administrator and Petition for Waiver and affirm that all facts stated therein are true and correct to the best of my knowledge and belief.

  
SIGNATURE OF LARRY DOEPPENSCHMIDT

7/27/07

DATE

WITNESS:

Signature: 

Print Name: Mary Lou Doeppenschmidt

Date: 07/27/07

# **Exhibit E**



## Schools and Libraries Division

November 14, 2006

Mr. Jose F. Martinez  
Pharr-San Juan-Alamo Independent School District  
804 East Highway 83  
Pharr, TX 78577

RE: Beneficiary Audit

Dear Mr. Martinez:

The school, school district, or library for which you serve as the authorized representative was recently audited to evaluate your entity's compliance with Federal Communications Commission (FCC) rules relating to the Schools and Libraries Program (E-rate). The audit focused on Funding Year 2002 and found that your entity was not in compliance with FCC rules because:

- Your Entity could not provide sufficient documentation to support your discount percentage.
- Your Entity could not provide sufficient documentation to evidence compliance with competitive bidding requirements.
- Your Entity could not locate equipment for which USAC disbursed funds.

Enclosed with this letter is a copy of the Audit Report. As a result of your entity's non-compliance, the Universal Service Administrative Company (USAC) is seeking recovery of funds consistent with the FCC's Orders.<sup>1</sup> The Audit Report may also describe "Other Matters." While these "Other Matters" are not audit findings, they do describe areas of potential risk related to your participation in the Schools and Libraries Program.

This letter notifies you, as the authorized representative of your entity, that as of the date of this letter, USAC will take no action on pending or future FCC Forms 471 submitted by your entity for 2003 and later until USAC determines that your entity has reasonably complied with the request explained below. USAC may also heighten its scrutiny of any invoices submitted for services provided to your entity.

USAC is responsible for ensuring that funding commitments and disbursements are made in compliance with program rules.<sup>2</sup> In addition, USAC has a fiduciary duty to protect the Universal Service Fund from waste, fraud and abuse.<sup>3</sup> You (and perhaps others), as the authorized representative of your entity, have made a number of

<sup>1</sup> See *In re Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45, 97-21, 02-6, FCC 04-181 (rel. July 30, 2004).

<sup>2</sup> See generally 47 U.S.C. § 254; 47 C.F.R. § 54.500 *et seq.*

<sup>3</sup> See 47 C.F.R. § 54.702.

certifications on the FCC Forms 471 and other program forms that you have submitted to USAC on behalf of your entity. False or incorrect certifications may result in numerous consequences, including denial of funding, recovery of funds already disbursed and/or other enforcement actions. The audit finding(s) resulting in your entity's non-compliance indicate that you failed to comply with one or more of the certifications that you made on program forms and/or that your entity has otherwise failed to comply with program requirements.

USAC requests that you provide the information and documentation explained below so that USAC can resume consideration of your entity's FCC Forms 471. If no response is received within six months of the date of this letter, or if no reasonable explanation for delay is provided within six months of the date of this letter, USAC will deny pending applications.

If you have received this letter during the FCC Form 471 filing window, you should submit your FCC Form(s) 471. Receipt of this letter does not indicate that you may not submit FCC Form(s) 471.

So that your service providers may make informed decisions about how to proceed, a copy of this letter is being sent to all service providers listed on currently pending FCC Forms 471.

Please note that, depending upon USAC's review of the information that you provide, USAC may also need to request information and documentation for prior funding years.

#### **WHAT TO ADDRESS REGARDING THE AUDIT FINDINGS**

Below is an explanation of what to address regarding the audit finding(s) so that a determination can be made regarding the hold on your entity's commitments.

- Your entity's non-compliance is the result of your failure to provide sufficient documentation to support your discount percentage in Funding Year 2002. In order to address this finding, your entity must develop a plan to strengthen internal controls regarding calculation and documentation of your entity's discount percentage eligibility to ensure full compliance with program requirements, and you need to implement this plan. In addition, you are required to provide documentation that complies with program requirements and that supports your entity's discount percentage requests for Funding Years 2003 and later.

You should consult FCC rules and orders available at the FCC website for details regarding these requirements.<sup>4</sup> You must provide USAC with proof that you have taken these steps. This proof should consist, at a minimum, of a copy of your entity's plan, a description of how this plan has been implemented, and documentation supporting the appropriate discount percentage for pending funding requests that complies with program requirements.

- Your entity's non-compliance is the result of failure to comply with the competitive bidding requirements of the program or failure to provide evidence demonstrating compliance with these requirements in Funding Year 2002. Therefore, you need

<sup>4</sup> See 47 C.F.R. §§ 54.505, 54.516(a), (b).

to demonstrate that for Funding Years 2003-2006 your entity has complied with these requirements. You should consult FCC rules and orders available at the FCC website for details regarding these requirements.<sup>5</sup> There are two components to these requirements – the FCC requirements and any applicable state or local requirements.

In regard to the FCC's competitive bidding requirements, you must provide, at a minimum, a description of the process that your entity used in Funding Year(s) 2003-2006 to ensure that your entity complied with the FCC's competitive bidding requirements; a copy of any RFP used; copies of all competing bids that you received; documentation of your evaluation of the bids including the basis for selecting your service provider(s); and a copy of signed contract(s) with your entity's service provider(s).

In regard to any applicable state or local requirements, you must, at a minimum, identify any state and/or local competitive bidding requirements that apply to your funding requests, or an explanation of why there are no applicable state and/or local competitive bidding requirements; a description of the process that you used to ensure that you complied with these requirements; any evidence necessary to show that you complied with these requirements such as copies of RFPs, local newspaper advertisements, etc.

You should consult FCC rules and orders available at the FCC website for details regarding these requirements.<sup>6</sup> You must provide USAC with proof that you have taken these steps. This proof should consist, at a minimum, of a copy of your entity's plan, a description of how this plan has been implemented.

- Your entity's non-compliance is the result of your entity not being able to locate equipment for which USAC disbursed funds. When USAC auditors visited your entity, you were unable to show the auditors the equipment and unable to provide information regarding its location. In order to address this finding, your entity must develop a plan to strengthen internal controls to ensure that when your entity receives equipment funded by Schools and Libraries Program, your entity has in fact received the services or equipment for which your entity (if applicable), is requesting reimbursement, and your entity has in fact paid the service providers that provided these services or equipment the full cost of the services or equipment. Your entity may not transfer equipment except under limited circumstances. Your entity also needs to maintain asset and inventory records.

You should consult FCC rules and orders available at the FCC website for details regarding these requirements.<sup>7</sup> You must provide USAC with proof that you have taken these steps. This proof should consist, at a minimum, of a copy of your entity's plan to address this audit finding, and a description of how this plan has been implemented.

<sup>5</sup> See 47 C.F.R. §§ 54.504(a)-(c), 54.511(a), 54.516(a), (b); *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District*, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407 (2003).

<sup>6</sup> See 47 C.F.R. §§ 54.505, 54.516(a), (b).

<sup>7</sup> See 47 C.F.R. §§ 54.514; 54.513, 54.516(a)(1); Universal Service for Schools and Libraries, Billed Entity Applicant Reimbursement Form and Instructions, OMB 3060-0856, (October 1998) (*FCC Form 472* or *BEAR Form*).

You should also provide any other information you believe would be useful to USAC in determining whether or not you have adequately addressed the audit findings that resulted in your entity's non-compliance. You must provide this proof within six months of the date of this letter, or you must provide a reasonable explanation for delay and a date certain by which you will provide the required information. Failure to provide the required information within the designated time period may result in denial of pending requests for funding.

#### **WHAT TO ADDRESS REGARDING THE OTHER MATTERS**

If the Audit Report describes "Other Matters," please be aware that while they are not audit findings, they do describe areas of potential risk related to your participation in the Schools and Libraries Program. USAC therefore recommends that you review the recommendations in the report pertaining to the other matter(s) and incorporate those recommendations into your participation in the program.

The information and documentation requested above should be sent to:

Universal Service Administrative Company  
Schools and Libraries Division  
Attn: Audit Response  
2000 L Street, N.W., Suite 200  
Washington, DC 20036

#### **USAC'S REVIEW OF YOUR COMPLIANCE WITH THIS REQUEST**

USAC will review your submission to determine whether it reasonably complies with the requirements set forth in this letter and demonstrates that you have adequately addressed the audit finding(s) that resulted in your entity's non-compliance. USAC may seek additional information and documentation from you as it makes this determination.

If USAC determines that you have reasonably complied with this request and that you have adequately addressed the audit finding(s) that resulted in your entity's non-compliance, you will be provided with written notification, and USAC will commence reviewing pending FCC Forms 471. If USAC determines that you have not reasonably complied with this request, your pending funding requests will be denied. Should this occur, you will be able to request review of USAC's decisions consistent with the procedure set out below.

#### **TO APPEAL THIS DECISION**

If you wish to appeal a decision in this letter, your appeal must be received by the Schools and Libraries Division and postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
  - appellant name,



- applicant or service provider name,
  - BEN and/or SPIN,
  - application or form number as assigned by the SLD,
  - name of the letter and funding year (both are located at the top of the letter),  
**AND**
  - the exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
  4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD's decision. If you are a service provider, please provide a copy of your appeal to the applicant affected by the SLD's decision.
  5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on the web site at [www.sl.universalservice.org](http://www.sl.universalservice.org). Click "Continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division  
Box 125 - Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC and postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send it to: Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, DC 20554.

#### **THE FCC's RED LIGHT RULE**

If you have received a Commitment Adjustment Notification Letter or a Recovery of Improperly Disbursed Funds Letter as a result of the audit findings, please be aware that FCC rules require you to pay the debt or make satisfactory arrangements to pay the debt if you do not appeal the recovery. The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding



Jose F. Martinez  
Page 6 of 6  
November 14, 2006

debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC.<sup>8</sup> However, FCC Form 471 applications are not dismissed pursuant to the Red Light Rule if the applicant timely appeals the existence or amount of the debt.<sup>9</sup> This information is provided on recovery notification letters and is being provided here as additional information.

Sincerely,

Cynthia L. Beach  
Manager of Audit Response

Enc: as stated

cc: Arturo Guajardo, Superintendent  
SBC Internet Service, Inc.  
Southwestern Bell Telephone, L.P.  
SBC Datacom, Inc.  
Novell, Inc.  
GDS Data Systems of Texas LLC  
Avnet  
SLD Long Distance  
The Presidio Corporation  
Reyna Enterprises, INC  
Micro Systems Engineering  
Education Service Center- Region One

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<sup>8</sup> See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808 ¶ 42 (2004) (*Schools and Libraries Fifth Order*).

<sup>9</sup> See *Schools and Libraries Fifth Order* ¶ 43.

# **Exhibit F**



**Schools & Libraries Division**

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**Notification of Commitment Adjustment Letter**  
**Funding Year 2002: 7/01/2002 - 6/30/2003**

December 7, 2006

**Jose F. Martinez**  
**PHARR-SAN JUAN-ALAMO I S D**  
**804 E US HIGHWAY 83**  
**PHARR, TX 78577**

**Re: Form 471 Application Number: 303671**  
**Funding Year: 2002**  
**Applicant's Form Identifier: PSJA-2002-471**  
**Billed Entity Number: 141667**  
**FCC Registration Number: 0010310811**  
**SPIN Name: The Presidio Corporation**  
**Service Provider Contact Person: Portia Speight**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

## TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

## FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Portia Speight  
The Presidio Corporation

## A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

**ORIGINAL FUNDING COMMITMENT:** This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

**COMMITMENT ADJUSTMENT AMOUNT:** This represents the amount of funding that SLD has rescinded because of program rule violations.

**ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

**FUNDS DISBURSED TO DATE:** This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

**FUNDS TO BE RECOVERED FROM APPLICANT:** This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for  
Form 471 Application Number: 303671**

---

Funding Request Number:	810283
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$2,530,070.89
Commitment Adjustment Amount:	\$2,530,070.89
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,222,686.51
Funds to be Recovered from Applicant:	\$2,222,686.51

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810370
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$364,147.65
Commitment Adjustment Amount:	\$364,147.65
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$317,680.50
Funds to be Recovered from Applicant:	\$317,680.50
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810449
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$201,237.03
Commitment Adjustment Amount:	\$201,237.03
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$172,526.17
Funds to be Recovered from Applicant:	\$172,526.17

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810517
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$60,245.28
Commitment Adjustment Amount:	\$60,245.28
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$60,245.28
Funds to be Recovered from Applicant:	\$60,245.28

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810851
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$380,854.17
Commitment Adjustment Amount:	\$380,854.17
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$352,433.80
Funds to be Recovered from Applicant:	\$352,433.80

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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**Schools & Libraries Division**

**Notification of Commitment Adjustment Letter**  
**Funding Year 2002: 7/01/2002 - 6/30/2003**

December 7, 2006

**Jose F. Martinez**  
**PHARR-SAN JUAN-ALAMO I S D**  
**804 E US HIGHWAY 83**  
**PHARR, TX 78577**

**Re: Form 471 Application Number: 303671**  
**Funding Year: 2002**  
**Applicant's Form Identifier: PSJA-2002-471**  
**Billed Entity Number: 141667**  
**FCC Registration Number: 0010310811**  
**SPIN Name: Calence, LLC**  
**Service Provider Contact Person: Cathi Whelan**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

## TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

## FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Cathi Whelan  
Calence, LLC

## A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

**ORIGINAL FUNDING COMMITMENT:** This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

**COMMITMENT ADJUSTMENT AMOUNT:** This represents the amount of funding that SLD has rescinded because of program rule violations.

**ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

**FUNDS DISBURSED TO DATE:** This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

**FUNDS TO BE RECOVERED FROM APPLICANT:** This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for  
Form 471 Application Number: 303671**

---

Funding Request Number:	810889
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143030052
Service Provider Name:	Calence, LLC
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$48,888.90
Commitment Adjustment Amount:	\$48,888.90
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$9,777.78
Funds to be Recovered from Applicant:	\$9,777.78

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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# **Exhibit G**

1-11-07



"Focused on Performance"

## PHARR-SAN JUAN-ALAMO INDEPENDENT SCHOOL DISTRICT

601 E. Kelly • Pharr, Texas 78577 • (956) 702-5600 • Fax: (956) 702-5648

**MR. ARTURO GUAJARDO**  
Superintendent of Schools

### BOARD OF EDUCATION

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<b>Members</b>	Mr. Pete Garcia
	Mr. Reymundo Gonzalez
	Mr. Roy Rodriguez

## Letter of Appeal

Entity Name: Pharr-San Juan-Alamo ISD  
Entity Address: 601. E. Kelly  
Pharr, TX. 78577

Phone (956) 702-6065  
Fax (956) 702-6067

Contact information:  
[dannys@psja.k12.tx.us](mailto:dannys@psja.k12.tx.us)  
(Daniel Saenz, Technology Director)

This letter is to formally appeal the decision of the November 14, 2006, letter from USAC regarding an audit conducted of our district's E-rate application for funding year 2002. This audit was conducted in March 2005 by KPMG LLP. The following is the district's information as it relates to this matter.

*Pharr-San Juan-Alamo Independent School District (PSJA ISD)*  
*Beneficiary No. 141667*  
*Form 470 Application Number 920700000395487*  
*Beneficiary Audit for Funding Year 2002*

We are appealing the findings of the funding year 2002 audit conducted by KPMG LLP in March 2005. According to these findings, the district was not in compliance with FCC rules due to the following:

1. the district could not provide sufficient documentation to support the discount percentage
2. the district could not provide sufficient documentation to evidence compliance with competitive bidding requirements
3. the district could not locate equipment for which USAC disbursed funds

### **Item 1:**

In reference to item 1 above, there was an error in the calculation of the discount percentage which can be attributed to the transfer of data from the Food Administration Services Department to the individual responsible for filing the FCC Form 471. After correcting the data, the discount percentage still remains the same. There was no monetary effect associated with this discrepancy.

**Corrective Action for Item 1:**

The district has included the Food Administration Services Department and the PEIMS Department in the E-Rate trainings. They are now familiar with the SLD Discount Matrix and formula used to determine the discount percentage for the district. The district has provided the PEIMS and Food Administration Services Departments with the exact worksheet from the FCC Form 471. This will eliminate any discrepancies between the actual data and the data entered into the Form 471. Furthermore, the district has created an E-Rate Committee which is responsible for preparing and overseeing the E-Rate program at Pharr-San Juan-Alamo ISD. The committee consists of the following individuals:

Technology Director (Core Team Member)  
Network Specialist (Core Team Member)  
Security Systems Specialist (Core Team Member)  
Senior Technicians (Core Team Members)  
Purchasing Coordinator (Core Team Member)  
PEIMS Coordinator  
Child Nutrition Director  
Chief Accountant (Core Team Member)  
Property Management Coordinator  
Assistant Superintendent for Finance  
Assistant Superintendent for Administration and School Operations  
Superintendent of Schools

The day-to-day operation of the E-Rate program will be the responsibility of the E-Rate Core Team, but all of the individuals above will be involved in the preparation and review of the program. Any information provided to USAC on behalf of the district will be reviewed by several of the E-Rate Committee members before submission. This will decrease the likelihood of errors in data submitted to USAC.

---

**Item 2:**

In reference to item 2 above, personnel changes at the district required a new personnel assignment to the E-Rate process, and the newly appointed individual for FY2002 was unfamiliar with the form filing timetables as they related to the FCC Form 470 and 471. Specifically, the individual thought the vendor selection needed to be completed prior to filing the FCC Form 470. This is evidenced by the dates of the selection of vendors which was prior to the Form 470 filing date. Clearly there was no intent to defraud or circumvent USAC or FCC rules. Each round since has complied with the mandatory 28 day open competitive bidding process. According to the audit findings, however, this would have a monetary effect of \$3,135,350.

These FRNs include:

FRN	Disbursed Amount
810283	\$ 2,222,687.
810370	\$ 317,680.
810449	\$ 172,526.
810517	\$ 60,245.
810851	\$ 352,434.
810889	\$ 9,778.
	\$ 3,135,350.

Having to pay back such a large amount would be a hardship for our district. Pharr-San Juan-Alamo is a poor school district as evidenced by our E-Rate discount percentage. Although we realize that the district did not adhere to the USAC and FCC timetables, this large monetary payback would mean taking over 3 million dollars away from our student's education.

**Corrective Action for Item 2:**

As discussed in item number 1 above, the district has created an E-Rate Committee which is responsible for preparing and overseeing the E-Rate program at Pharr-San Juan-Alamo ISD. The committee consists of 13 members 7 of which are core team members which are involved with the day-to-day operation of the E-Rate program. However, all of the individuals on the committee will be involved in the preparation and review of the program. Any information provided to USAC on behalf of the district will be reviewed by several of the E-Rate Committee members before submission. This will decrease the likelihood of errors in data submitted to USAC.

The district has mandated that all members of the E-Rate Committee go through several E-Rate trainings. The district has also created an email list for the E-Rate Committee where information and updates will be posted. They are now familiar with the SLD and FCC regulations and timetables as they relate to the Form 470 and 471 as well as implementation of the program. All submissions to USAC will now be reviewed by several of the E-Rate Committee members.

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**Item 3:**

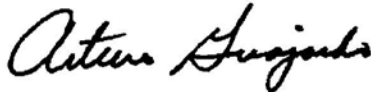
In reference to item 3 above, the district was not consistent in updating the inventory listing as necessary to appropriately monitor the location and use of this equipment. The district did provide documentation from the vendor that the switches were installed and operable during funding year 2002. However, in subsequent years these switches were upgraded and replaced. The district has reminded all technicians that all equipment should be accounted for prior to the departure of the vendor from the district's premises. Clearly there was no intent to defraud or circumvent USAC or FCC rules. However, the district has already reimbursed USAC for the amount of these switches.

**Corrective Action for Item 3:**

As discussed in item number 1 above, the district has created an E-Rate Committee which is responsible for preparing and overseeing the E-Rate program at Pharr-San Juan-Alamo ISD. The committee consists of 13 members 7 of which are core team members. The day-to-day operation of the E-Rate program will be the responsibility of the E-Rate Core Team, but all of the individuals on the committee will be involved in the preparation and review of the program.

The E-Rate Core Team has recently done a thorough inventory of all E-Rate equipment in the district. A new form for tracking the movement of equipment with the campuses and in the district has also been created. Equipment will not be moved from its current location unless it is allowable by USAC guidelines and there is a inventory transfer form completed and filed. This will decrease the likelihood of lost or misplaced equipment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Arturo Guajardo". The signature is fluid and cursive, with the first name "Arturo" being more prominent than the last name "Guajardo".

Arturo Guajardo  
Superintendent of Schools

# **Exhibit H**



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal - Funding Year 2002-2003**

June 1, 2007

Arturo Guajardo  
Pharr-San Juan-Alamo Independent School District  
601 E. Kelly  
Pharr, TX 78577

Re:    Applicant Name:                      Pharr-San Juan-Alamo Independent School  
   District  
      Billed Entity Number:                141667  
      Form 471 Application Number:       303671  
      Funding Request Number(s):        810283, 810370, 810449, 810517, 810851,  
   810889  
      Your Correspondence Received:    January 11, 2007

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Funding Year 2002 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Numbers: 810283, 810370, 810449, 810517, 810851, 810889  
Decision on Appeal:                      **Denied**  
Explanation:

- During the Appeal Review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of your performance audit, it was determined that you signed a contract and entered into an agreement with the service provider prior to the expiration of 28-day posting period of Form 470 Application number 920700000395487. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider,

entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified you that the earliest date upon which you could sign a contract or enter into an agreement (Allowable Contract Date) was January 7, 2002. Based on the documentation provided during the audit, Pharr-San Juan-Alamo Independent School District signed a contract or entered into an agreement on December 11, 2001. As you stated in Item 2 of your January 11, 2007 appeal letter, "the individual thought that the vendor selection needed to be completed prior to filing the FCC Form 470," which is clearly in violation of the competitive bidding process. Since the District signed a contract or entered into an agreement prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

- FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The Form 470 must include a complete description of the services for which discounts are sought, be posted on the web site for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. 47 C.F.R. §§ 54.504, 54.511(a) and (c). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd. 10095, FCC 97-246, p. 10098 ¶ 9 (rel. Jul. 10, 1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; and (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date on which the web site became operational) for products and/or services provided through June 30, 1999. 47 C.F.R. § 54.511(c) and (d).

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company



# **Exhibit I**



Universal Service Administrative Company

**Schools & Libraries Division**

**Demand Payment Letter**  
**Funding Year 2002: 7/01/2002 - 6/30/2003**

June 7, 2007

**Jose F. Martinez**  
**PHARR-SAN JUAN-ALAMO I S D**  
**804 E US HIGHWAY 83**  
**PHARR, TX 78577**

**Re: Form 471 Application Number: 303671**  
**Funding Year: 2002**  
**Applicant's Form Identifier: PSJA-2002-471**  
**Billed Entity Number: 141667**  
**FCC Registration Number: 0010310811**  
**SPIN Name: The Presidio Corporation**  
**Service Provider Contact Person: Portia Speight**

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the

debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company  
1259 Paysphere Circle  
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company  
Lockbox 1259  
540 West Madison 4th Floor  
Chicago, IL 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

**Payment is due within 30 days from the date of this letter.**

Complete program information is posted to the SLD section of the USAC web site at [www.universalservice.org/sl/](http://www.universalservice.org/sl/). You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company  
Schools and Libraries Division

cc: Portia Speight  
The Presidio Corporation

## A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

**ORIGINAL FUNDING COMMITMENT:** This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

**COMMITMENT ADJUSTMENT AMOUNT:** This represents the amount of funding that SLD has rescinded because of program rule violations.

**ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

**FUNDS DISBURSED TO DATE:** This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

**FUNDS TO BE RECOVERED FROM APPLICANT:** This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report**  
**Form 471 Application Number: 303671**

---

Funding Request Number: 810283  
Services Ordered: INTERNAL CONNECTIONS  
SPIN: 143015315  
Service Provider Name: The Presidio Corporation  
Contract Number: PSJA-AVNET-2002-001  
Billing Account Number: 956-702-5984  
Site Identifier: 141667  
Original Funding Commitment: \$2,530,070.89  
Commitment Adjustment Amount: \$2,530,070.89  
Adjusted Funding Commitment: \$0.00  
Funds Disbursed to Date: \$2,222,686.51  
Funds to be Recovered from Applicant: \$2,222,686.51

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**

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Funding Request Number:	810370
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$364,147.65
Commitment Adjustment Amount:	\$364,147.65
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$317,680.50
Funds to be Recovered from Applicant:	\$317,680.50

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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CHECK TO ENSURE TIMELY PROCESSING**

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Funding Request Number:	810449
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$201,237.03
Commitment Adjustment Amount:	\$201,237.03
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$172,526.17
Funds to be Recovered from Applicant:	\$172,526.17

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**

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Funding Request Number:	810517
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$60,245.28
Commitment Adjustment Amount:	\$60,245.28
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$60,245.28
Funds to be Recovered from Applicant:	\$60,245.28

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**



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Funding Request Number:	810851
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$380,854.17
Commitment Adjustment Amount:	\$380,854.17
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$352,433.80
Funds to be Recovered from Applicant:	\$352,433.80

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**

# **Exhibit J**

# FISH & RICHARDSON P.C.

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

1425 K Street, N.W.  
11th Floor  
Washington, DC 20005

Telephone  
202 783-5070

Facsimile  
202 783-2331

Web Site  
[www.fr.com](http://www.fr.com)

July 6, 2007

## Via Facsimile and U.S. Mail

Universal Service Administrative Company  
Schools and Libraries Division  
2000 L Street, N.W.  
Suite 200  
Washington, D.C. 20036

Donna A. Balaguer  
202 626-7719  
[balaguer@fr.com](mailto:balaguer@fr.com)



ATLANTA

AUSTIN

BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Re: Pharr-San Juan-Alamo ISD  
Funding Year: 2002  
Form 471 Application No. 303671  
FCC Registration Number: 0010310811

Dear Sir or Madam:

I am writing to advise you that Fish & Richardson P.C. has been retained by the Pharr-San Juan-Alamo Independent School District (the "School District") to assist in responding to the Demand Payment Letter attached as Exhibit A and the Administrator's Decision on Appeal attached as Exhibit B. Based on our initial review of the facts, it appears that there are a number of reasons to reverse the Administrator's Decision on appeal. We are in the process of preparing an appeal and intend to file the appeal with the Commission by the July 31, 2007 deadline.

Although the appeal is not due until July 31, 2007, the Demand Payment Letter requests repayment of the funds in question by July 7, 2007. The School District does not intend to make the requested payment until after the Commission has an opportunity to consider its appeal. Accordingly, it is requested that all efforts to collect the funds allegedly due from the School District be suspended until the appeals process is completed. The School District understands, based on conversations with USAC staff, that this is USAC's practice.

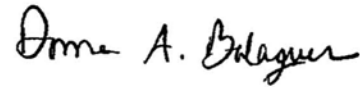
FISH & RICHARDSON P.C.

July 6, 2007

Page 2

If you have any questions concerning this letter or wish to discuss this matter, kindly contact the undersigned.

Sincerely yours,

A handwritten signature in cursive script, reading "Donna A. Balaguer".

Donna A. Balaguer

cc (via email): USAC, Billing, Collections & Disbursement

Jeremy Marcus

Gina Spade

Cynthia Beach

Brian Murphy

Janet Robles

Daniel Saenz

Attachments

# **Exhibit A**



Universal Service Administrative Company

**Schools & Libraries Division**

**Demand Payment Letter**

**Funding Year 2002: 7/01/2002 - 6/30/2003**

June 7, 2007

**Jose F. Martinez  
PHARR-SAN JUAN-ALAMO I S D  
804 E US HIGHWAY 83  
PHARR, TX 78577**

**Re: Form 471 Application Number: 303671  
Funding Year: 2002  
Applicant's Form Identifier: PSJA-2002-471  
Billed Entity Number: 141667  
FCC Registration Number: 0010310811  
SPIN Name: The Presidio Corporation  
Service Provider Contact Person: Portia Speight**

You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is attached to this letter. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the

debt to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company  
1259 Paysphere Circle  
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company  
Lockbox 1259  
540 West Madison 4th Floor  
Chicago, IL 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

**Payment is due within 30 days from the date of this letter.**

Complete program information is posted to the SLD section of the USAC web site at [www.universalservice.org/s/](http://www.universalservice.org/s/). You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company  
Schools and Libraries Division

cc: Portia Speight  
The Presidio Corporation

## A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

**ORIGINAL FUNDING COMMITMENT:** This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

**COMMITMENT ADJUSTMENT AMOUNT:** This represents the amount of funding that SLD has rescinded because of program rule violations.

**ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

**FUNDS DISBURSED TO DATE:** This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

**FUNDS TO BE RECOVERED FROM APPLICANT:** This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.



**Funding Commitment Adjustment Report  
Form 471 Application Number: 303671**

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Funding Request Number:	810283
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$2,530,070.89
Commitment Adjustment Amount:	\$2,530,070.89
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$2,222,686.51
Funds to be Recovered from Applicant:	\$2,222,686.51

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810370
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$364,147.65
Commitment Adjustment Amount:	\$364,147.65
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$317,680.50
Funds to be Recovered from Applicant:	\$317,680.50

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810449
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$201,237.03
Commitment Adjustment Amount:	\$201,237.03
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$172,526.17
Funds to be Recovered from Applicant:	\$172,526.17

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810517
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$60,245.28
Commitment Adjustment Amount:	\$60,245.28
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$60,245.28
Funds to be Recovered from Applicant:	\$60,245.28

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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Funding Request Number:	810851
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143015315
Service Provider Name:	The Presidio Corporation
Contract Number:	PSJA-AVNET-2002-001
Billing Account Number:	956-702-5984
Site Identifier:	141667
Original Funding Commitment:	\$380,854.17
Commitment Adjustment Amount:	\$380,854.17
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$352,433.80
Funds to be Recovered from Applicant:	\$352,433.80
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of an audit it was determined that the applicant signed a contract/entered into an agreement with the service provider prior to the expiration of 28-day posting period. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider, entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified the applicant that the earliest date upon which they could sign a contract or enter into an agreement (Allowable Contract Date) was 01/07/2002. Based on the documentation provided during the audit the service provider was selected on 12/11/2001. Since the service provider was selected prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

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# **Exhibit B**



June 1, 2007

Re: Applicant Name: Pharr-San Juan-Alamo Independent School District  
Billed Entity Number: 141667  
Form 471 Application Number: 303671  
Funding Request Number(s): 810283, 810370, 810449, 810517, 810851, 810889  
Your Correspondence Received: January 11, 2007

**Funding Request Numbers:** 810283, 810370, 810449, 810517, 810851, 810889  
**Decision on Appeal:** **Denied**  
**Explanation:**

- During the Appeal Review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of your performance audit, it was determined that you signed a contract and entered into an agreement with the service provider prior to the expiration of 28-day posting period of Form 470 Application number 920700000395487. FCC rules require that except under limited circumstances, all Forms 470 received be posted on the USAC web site for 28 days, and that applicants carefully consider all bids received before selecting a service provider.

entering into an agreement or signing a contract, and signing and submitting a Form 471. In the Receipt Notification Letter, USAC notified you that the earliest date upon which you could sign a contract or enter into an agreement (Allowable Contract Date) was January 7, 2002. Based on the documentation provided during the audit, Pharr-San Juan-Alamo Independent School District signed a contract or entered into an agreement on December 11, 2001. As you stated in Item 2 of your January 11, 2007 appeal letter, "the individual thought that the vendor selection needed to be completed prior to filing the FCC Form 470," which is clearly in violation of the competitive bidding process. Since the District signed a contract or entered into an agreement prior to the required 28-day posting period, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds.

- FCC rules require that all products and services for which an applicant requests discounts on an FCC Form 471 must be competitively bid on an FCC Form 470. The Form 470 must include a complete description of the services for which discounts are sought, be posted on the web site for 28 days, and applicants must carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting a Form 471. 47 C.F.R. §§ 54.504, 54.511(a) and (c). These competitive bidding requirements help to ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd. 10095, FCC 97-246, p. 10098 ¶ 9 (rel. Jul. 10, 1997). The only exceptions to the posting requirement are for: (1) contracts signed on or before July 10, 1997 for the life of the contract; and (2) contracts signed between July 10, 1997 and before January 30, 1998 (the date on which the web site became operational) for products and/or services provided through June 30, 1999. 47 C.F.R. § 54.511(c) and (d).

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company